

IOWA LAWS



1983 INTERIM SUPPLEMENT TO THE 1983 IOWA CODE

Containing

New Statutes, Amendments, and Repeals of Statutes
of a General and Permanent Nature

Enacted by the
Seventieth General Assembly, 1983 Regular Session
and enacted by the
Sixty-ninth General Assembly, 1982 Regular Session
to take effect December 1, 1983

This volume may be cited as "1983 Iowa Code Supplement".

Prepared and Issued by the Legislative Service Bureau of Iowa

CODE EDITOR'S PREFACE

This 1983 Iowa Code Supplement shows sections of the laws of Iowa enacted, amended, or repealed by the 1983 General Assembly, arranged in the numerical sequence followed in the 1983 Iowa Code. It also shows sections enacted, amended, or repealed by chapters 1032 and 1062 of the 1982 Iowa Acts which take effect December 1, 1983.

Unless otherwise indicated in a footnote, the new sections, amendments, and repeals were effective July 1, 1983.

A source note in parenthesis following each new or amended section refers to the appropriate chapter and section number in the 1982 or 1983 Iowa Acts where the new section or amendment can be found in the form it had upon passage. Repeals are indicated in a form similar to that used in the 1983 Iowa Code.

Following the source note or repeal may be a footnote if needed. A footnote to an amended section refers only to the amended part and not necessarily to the entire section as printed. Cross-reference footnotes and other footnotes from the 1983 Iowa Code generally are not included but will be corrected as necessary and appear in the 1985 Iowa Code. Occasionally a footnote is shown for a section which, although not directly amended, is affected by some part of the 1983 Iowa Acts. In this case, only the section headnote is shown preceding the footnote. Following the source note or footnote for a new or amended section is an explanatory note to indicate whether the section or a part of it is new, or was amended, struck, or struck and rewritten.

At the end of this Supplement is a Table of Corresponding Sections which shows the disposition of each section in the 1983 Iowa Acts, and in the included 1982 Iowa Acts. New Code sections are indicated by the letter N preceding the section number. Also at the end of this Supplement are Code editor's notes which explain the manner and the reasons why editorial decisions were made, and a subject matter Index to new or amended Code sections.

Because of several major recodification acts enacted in 1983, an unusual number of duplicate amendments to the same section occurred. An attempt has been made to harmonize these wherever possible in accordance with sections 4.7, 4.8 and 4.11 of the Code, and to explain what was done in the Code editor's notes. However, if a section or part of a section was repealed or struck and also amended, it has been assumed that the repeal or strike prevails. Many of the duplicate amendments occurred as a result of instructions to the Code editor to make certain corrective changes consistent with 1983 Iowa Acts, chapter 96 (SF 464). These changes included changing the name of the department of social services to the department of human services, effective July 1, 1983, and changing references to the division of adult corrections to the new Iowa department of corrections, effective October 1, 1983. Where both of these changes were required, only the October 1 change is shown. These instructions may be found in section 160 of chapter 96, and in chapter 51, section 7 (SF 503) and chapter 203, section 22 (SF 532) of the 1983 Iowa Acts.

CHAPTER 1

SOVEREIGNTY AND JURISDICTION OF THE STATE

1.15 Attorney appointed by state in civil actions. In all civil causes of action where the state of Iowa or any of its subdivisions or departments is a party, and a member of the Sac and Fox Indian settlement is a party, the district court of Iowa shall appoint competent legal counsel at all stages of hearing, appeal and final determination for any Indian not otherwise represented by legal counsel, in any domestic relations matter, including, but not limited to, matters pertaining to dependency, neglect, delinquency, care or custody of minors. The court shall fix and allow reasonable compensation for the services of the attorney, costs of transcripts and depositions, and investigative expense, which shall be paid as a claim by the office of county auditor of the county where the action is commenced, and the county shall be paid for all sums so paid out of any funds in the state treasury not otherwise appropriated upon filing claim with the state comptroller.

(83 Acts, ch 123, § 27, 209) HF 628

Amended

CHAPTER 2

GENERAL ASSEMBLY

2.10 Salaries and expenses — members of general assembly and lieutenant governor. Members of the general assembly and the lieutenant governor shall receive salaries and expenses as provided by this section.

1. Every member of the general assembly except the speaker of the house and majority and minority floor leaders of the senate and house shall receive an annual salary of fourteen thousand six hundred dollars for the year 1985 and subsequent years while serving as a member of the general assembly. The majority and minority floor leaders of the senate and house shall receive an annual salary of seventeen thousand one hundred dollars for the year 1985 and subsequent years while serving in such capacity. In addition, each such member shall receive the sum of forty dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that in the event the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, such payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. However, members from Polk county shall receive twenty-five dollars per day. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.

2. The lieutenant governor shall receive an annual salary of twenty-one thousand nine hundred dollars for the year 1985 and subsequent years. Personal expense and travel allowances shall be the same for the lieutenant governor as for a senator. The lieutenant governor while performing administrative duties of the office of lieutenant governor when the general assembly is not in session or serving as the president of the senate during special sessions of the general assembly shall receive sixty dollars per diem and reimbursement for expenses incurred in performing such duties. The

salary, per diem, and expenses of the lieutenant governor provided for under this subsection, including office and staff expenses, shall be paid from funds appropriated to the office of the lieutenant governor by the general assembly.

3. The speaker of the house shall receive an annual salary of twenty-one thousand nine hundred dollars for the year 1985 and subsequent years while serving as the speaker of the house. Expense and travel allowances shall be the same for the speaker of the house as provided for other members of the general assembly.

4. When a vacancy occurs and the term of any member of the general assembly is not completed, he shall receive a salary or compensation proportional to the length of his service computed to the nearest whole month. A successor elected to fill such vacancy shall receive a salary or compensation proportional to his length of service computed to the nearest whole month commencing with such time as the successor is officially determined to have succeeded to such office.

5. The state comptroller shall pay the travel and expenses of the members of the general assembly and the lieutenant governor commencing with the first pay period after the names of such persons are officially certified. The salaries of the members of the general assembly and lieutenant governor shall be paid pursuant to any of the following alternative methods:

a. During each month of the year at the same time state employees are paid.

b. During each pay period during the first six months of each calendar year.

c. During the first six months of each calendar year by allocating two-thirds of the annual salary to the pay periods during those six months and one-third of the annual salary to the pay periods during the second six months of a calendar year. Each member of the general assembly and the lieutenant governor shall file with the state comptroller a statement as to the method the member selects for receiving payment of salary. The presiding officers of the two houses of the general assembly shall jointly certify to the state comptroller the names of the members, officers, and employees of their respective houses and the salaries and mileage to which each is entitled. Travel and expense allowances shall be paid upon the submission of vouchers to the state comptroller indicating a claim for the same.

6. In addition to the salaries and expenses authorized by this section, members of the general assembly shall be paid forty dollars per day, except the speaker of the house who shall be paid sixty dollars per day, and necessary travel and actual expenses incurred in attending meetings for which per diem or expenses are authorized by law for members of the general assembly who serve on statutory boards, commissions, or councils, and for standing or interim committee or subcommittee meetings subject to the provisions of section 2.14, or when on authorized legislative business when the general assembly is not in session. However, if a member of the general assembly or the lieutenant governor is engaged in authorized legislative business at a location other than at the seat of government during the time the general assembly is in session, payment may be made for the actual transportation and lodging costs incurred because of the business. Such per diem or expenses shall be paid promptly from funds appropriated pursuant to section 2.12.

7. If a special session of the general assembly is convened, members of the general assembly shall receive, in addition to their annual salaries, the sum of forty dollars per day for each day the general assembly is actually in special session, and the same travel allowances and expenses as authorized by this section.

(83 Acts, ch 205, § 20) HF 646

Subsections 1, 2 and 3 amended

2.40 Membership in state insurance plans. A member of the general assembly may elect to become a member of a state health or medical service group insurance plan for employees of the state established under chapter 509A subject to the following conditions:

1. The member shall pay the total premium for the plan selected.

2. The member shall authorize a payroll deduction of the total premium during the member's pay plan selected pursuant to subsection 5 of section 2.10.

3. The premium rate will be the same as the premium rate paid by a state employee for the plan selected except the state will provide no matching funds.

In order to implement this section a member of the general assembly may elect to become a member of a state health or medical service group insurance plan effective July 1, 1983 or as otherwise authorized in the contract of the state. If a member of the general assembly elected to be paid the member's total salary during each pay period during the first six months of 1983, that member may become a member of the state health or medical service group insurance plan by paying the premium due until that member's salary and payroll deductions commence.

(83 Acts, ch 205, § 21) HF 646

NEW section

2.42 Powers and duties of council. The legislative council shall select its officers and prescribe its rules and procedure. The powers and duties of the council shall include, but not be limited to, the following:

1. To establish policies for the operation of the legislative service bureau, including the priority to be given to research requests and the distribution of research reports.

2. To appoint the director of the legislative service bureau for such term of office as may be set by the council.

3. To prepare reports to be submitted to the general assembly at its regular sessions.

4. To appoint interim study committees consisting of members of the legislative council and members of the general assembly of such number as the council shall determine. Nonlegislative members may be included on such committees when the council deems the participation of such members advantageous to the conduct of the study.

5. To conduct studies and evaluate reports of studies assigned to study committees and make recommendations for legislative or administrative action thereon. Recommendations shall include such bills as the legislative council may deem advisable.

6. To co-operate with other states to discuss mutual legislative and governmental problems.

7. To recommend staff for the legislative council and the standing committees in co-operation with the chairman of such standing committees.

8. To recommend changes or revisions in the senate and house rules and the joint rules for more efficient operation of the general assembly and draft proposed rule amendments, resolutions, and bills as may be required to carry out such recommendations, for consideration by the general assembly.

9. To recommend to the general assembly the names and numbers of standing committees of both houses.

10. To establish rules for the style and format for drafting and preparing of legislative bills and resolutions.

11. To appoint the Code editor*, establish the salaries of the persons employed in that office and establish policies with regard to the printing and publishing of the Iowa administrative code and bulletin, the Code of Iowa and session laws, including but not limited to: The style and format to be used in publishing such documents, the frequency of publications, the contents of such publications, the numbering system to be used in the Code and session laws, the preparation of editorial comments or notations, the correction of errors, the type of print to be used, the number of volumes to be published, recommended revisions of the Code and session laws, the letting of contracts for the publication of the Code and session laws, and any other matters deemed necessary to the publication of a uniform and understandable Code of laws.

12. To establish policies for the operation of the legislative fiscal bureau.

13. To appoint the director of the legislative fiscal bureau** for such term of office as may be set by the council.

14. To hear and act upon appeals of aggrieved employees of the legislative service bureau, legislative fiscal bureau, and the office of the citizens' aide pursuant to such rules of procedure as may be established by the council.

15. To fix the compensation of the director of the legislative oversight bureau.

16. Authority to review proposed rules and forms submitted by the supreme court pursuant to section 684.18.***

(83 Acts, ch 186, § 10001, 10201) SF 495

*See § 14.1

**See also § 2.48

***Chapter 684 repealed; 83 Acts, ch 186, § 10201, 10203 (SF 495); see section 602.4202 in this Supplement.

NEW subsection 16

2.53 Actuarial services. Repealed by 83 Acts, ch 200, § 14. (HF 627)

CHAPTER 2B

PROFESSIONAL AND OCCUPATIONAL REGULATION COMMISSION

Effective July 1, 1986, this chapter is repealed; 83 Acts,
ch 100, § 4, 5 (SF 391)

2B.2 Commission established.

1. A commission on professional and occupational regulation is created. The commission shall be bipartisan and be composed of the following members appointed by the legislative council:

- a. Two senators, not more than one from any one political party.
- b. Two representatives, not more than one from any one political party.
- c. Five persons, not more than three from any one political party.

2. A commission member shall be appointed to a term of four years beginning July 1 in the year of appointment. A member shall serve until a successor is appointed. A vacancy exists when a commission member ceases to be a member of the general assembly. A member of the commission shall not be a member of a licensed profession or occupation.

3. The commission shall organize annually and elect a chairperson. The legislative service bureau shall provide administrative and staff assistance to the commission. The members of the commission, including the legislative members when the general assembly is not in session, shall be paid forty dollars per diem and actual and necessary expenses from funds appropriated by section 2.12.

(83 Acts, ch 100, § 1, 6) SF 391

Former terms expire and new members appointed July 1, 1983; one senator, one representative, and three citizens appointed to initial two-year terms

Struck and rewritten

2B.3 Duties.

1. The commission on professional and occupational regulation shall evaluate those professions and occupations seeking to become regulated and may evaluate those professions and occupations which are regulated according to the criteria listed in section 2B.1. The general assembly may, by concurrent resolution, direct that the commission undertake or not undertake an evaluation of a profession or occupation. Upon completion of an evaluation, the commission shall make a recommendation to the general assembly whether the profession or occupation should become or continue to be regulated by the state and the degree of regulation that should be imposed. Proposed changes in licensing laws, including changes in the scope of the practice or the authority of the licensing board, shall be submitted to the commission for its recommendations to the chairpersons and ranking members of the standing committees on state government of the general assembly. If the commission recommends a continuation or imposition of regulation, the commission shall recommend whether continuing education should be required. The commission may conduct an

evaluation of continuing education requirements of a regulated profession or occupation without evaluating whether regulation of the profession or occupation should be continued. The commission shall file an annual report of its evaluations and recommendations with the chief clerk of the house of representatives and the secretary of the senate upon the convening of each session of the general assembly.

2. If the commission determines that existing remedies do not adequately protect the public health, safety or welfare, it shall consider the following degrees of regulation of the practice of that occupation or profession in the order they appear below:

a. Statutory change to provide stricter causes for civil action and criminal prosecution.

b. Inspection of the practitioner's premises and activities and authorization of an appropriate state agency to enjoin an activity which is detrimental to the public health, safety or welfare.

c. Registration of a practitioner's location, nature and operation of practice.

d. Certification by an appropriate state agency that a practitioner has the minimum skills to properly engage in the occupation or profession.

e. Licensure by an appropriate state agency of the profession or occupation.

3. In determining the proper degree of regulation, if any, the commission shall determine the following:

a. Whether the practitioner performs a service for individuals which, if unregulated, involves a hazard to the public health, safety or welfare.

b. The number of states which have regulatory provisions similar to those proposed.

c. Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, as evidenced by established and published codes of ethics.

d. Whether the profession or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that the practitioner has met minimum qualifications.

e. Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.

f. Whether current laws which protect the public health, safety and welfare generally are ineffective or inadequate.

g. Whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety and welfare.

h. Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.

i. Whether the profession or occupation is required to be regulated by the federal government or an agency thereof.

j. Whether the practitioner performs a service for others which would qualify for payment of part or all of those services by a third party if the practitioner were to be regulated as provided in this chapter.

k. Whether there is sufficient demand for the service for which there is no substitute which is not similarly regulated and this service is required by a substantial portion of the population.

l. The view of a substantial portion of the people who do not practice the particular profession or occupation.

m. Whether the skill or information necessary to practice the profession or occupation adequately changes at such a pace or to such an extent as to justify continuing education requirements.

(83 Acts, ch 100, § 2, 3) SF 391

Subsection 1 amended

Subsection 3 amended by adding NEW paragraph m

CHAPTER 4

CONSTRUCTION OF STATUTES

4.1 Rules. In the construction of the statutes, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the general assembly, or repugnant to the context of the statute:

1. *Repeal — effect of.* The repeal of a statute, after it becomes effective, does not revive a statute previously repealed, nor affect any right which has accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the statute repealed.

2. *Words and phrases.* Words and phrases shall be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such meaning.

3. *Number and gender.* Unless otherwise specifically provided by law the singular includes the plural, and the plural includes the singular. Words of one gender include the other genders.

4. *Joint authority.* Words giving a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it be otherwise expressed in the Act giving the authority.

5. *Highway — road.* The words “highway” and “road” include public bridges, and may be held equivalent to the words “county way”, “county road”, “common road”, and “state road”.

6. *Mentally ill.* The words “mentally ill person” include mental retardates, psychotic persons, severely depressed persons and persons of unsound mind. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

7. *Issue.* The word “issue” as applied to descent of estates includes all lawful lineal descendants.

8. *Land — real estate.* The word “land” and the phrases “real estate” and “real property” include lands, tenements, hereditaments, and all rights thereto and interests therein, equitable as well as legal.

9. *Personal property.* The words “personal property” include money, goods, chattels, evidences of debt, and things in action.

10. *Property.* The word “property” includes personal and real property.

11. *Month — year — A.D.* The word “month” means a calendar month, and the word “year” and the abbreviation “A.D.” are equivalent to the expression “year of our Lord.”

12. *Oath — affirmation.* The word “oath” includes affirmation in all cases where an affirmation may be substituted for an oath, and in like cases the word “swear” includes “affirm”.

13. *Person.* Unless otherwise provided by law “person” means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

14. *Seal.* Where the seal of a court, public office or officer, or public or private corporation, may be required to be affixed to any paper, the word “seal” shall include an impression upon the paper alone, as well as upon wax or a wafer affixed thereto or an official ink stamp if a notarial seal.

15. *State.* The word “state”, when applied to the different parts of the United States, includes the District of Columbia and the territories, and the words “United States” may include the said district and territories.

16. *Will.* The word “will” includes codicils.

17. *Written — in writing — signature.* The words “written” and “in writing” may include any mode of representing words or letters in general use. A signature, when

required by law, must be made by the writing or markings of the person whose signature is required. If a person is unable due to a physical handicap to make a written signature or mark, that person may substitute the following in lieu of a signature required by law:

a. His or her name written by another upon the request and in the presence of the handicapped person; or,

b. A rubber stamp reproduction of the handicapped person's name or facsimile of the actual signature when adopted by the handicapped person for all purposes requiring a signature and then only when affixed by that person or another upon request and in the handicapped person's presence.

18. *Sheriff*. The term "sheriff" may be extended to any person performing the duties of the sheriff, either generally or in special cases.

19. *Deed — bond — indenture — undertaking*. The word "deed" is applied to an instrument conveying lands, but does not imply a sealed instrument; and the words "bond" and "indenture" do not necessarily imply a seal, and the word "undertaking" means a promise or security in any form.

20. *Executor — administrator*. The term "executor" includes administrator, and the term "administrator" includes executor, where the subject matter justifies such use.

21. *Numerals — figures*. The Roman numerals and the Arabic figures are to be taken as parts of the English language.

22. *Computing time — legal holidays*. In computing time, the first day shall be excluded and the last included, unless the last falls on Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday, provided that, whenever by the provisions of any statute or rule prescribed under authority of a statute, the last day for the commencement of any action or proceedings, the filing of any pleading or motion in a pending action or proceedings or the perfecting or filing of any appeal from the decision or award of any court, board, commission or official falls on a Saturday, a Sunday, the first day of January, the twelfth day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the eleventh day of November, the fourth Thursday in November, the twenty-fifth day of December, and the following Monday whenever any of the foregoing named legal holidays may fall on a Sunday, and any day appointed or recommended by the governor of Iowa or the president of the United States as a day of fasting or thanksgiving, the time therefor shall be extended to include the next day which is not a Saturday, Sunday or such day hereinbefore enumerated.

23. *Consanguinity and affinity*. Degrees of consanguinity and affinity shall be computed according to the civil law.

24. *Clerk — clerk's office*. The word "clerk" means clerk of the court in which the action or proceeding is brought or is pending; and the words "clerk's office" means his office.

25. *Population*. The word "population" where used in this Code or any statute means the population shown by the latest preceding certified federal census, unless otherwise specifically provided.

26. If a statute refers to a series of numbers or letters, the first and the last numbers or letters are included.

27. "Child" includes child by adoption.

28. If there is a conflict between figures and words in expressing a number, the words govern.

29. "Preceding" and "following" when used by way of reference to a chapter or other part of a statute mean the next preceding or next following chapter or other part.

30. A quorum of a public body is a majority of the number of members fixed by statute.

31. "Rule" includes "regulation."
 32. Words in the present tense include the future.
 33. "United States" includes all the states.
 34. The word "week" means seven consecutive days.
 35. The word "year" means twelve consecutive months.
 36. Unless otherwise specifically provided by the general assembly, whenever the following words are used in a statute enacted after July 1, 1971, their meaning and application shall be:

- a. The word "shall" imposes a duty.
- b. The word "must" states a requirement.
- c. The word "may" confers a power.

37. *Appellate court*. The term "appellate court" means and includes both the supreme court and the court of appeals. Where an act, omission, right, or liability is by statute conditioned upon the filing of a decision by an appellate court, the term means any final decision of either the supreme court or the court of appeals.

38. "*Court employee*" and "*employee of the judicial department*" include every officer or employee of the judicial department except a judicial officer.

39. "*Judicial officer*" means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.

40. "*Magistrate*" means a judicial officer appointed under chapter 602, article 6, part 4.

(83 Acts, ch 186, §10002,10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
 NEW subsections 38, 39 and 40

CHAPTER 7 GOVERNOR

7.22 Exchange of offenders under treaty — consent by governor. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which the offenders are citizens or nationals, the governor or the governor's designee, on behalf of the state and subject to the terms of the treaty, may authorize the transfer or exchange of offenders.

(83 Acts, ch 203, § 13) SF 532
 NEW section

CHAPTER 7A PLANNING AND PROGRAMMING OFFICE

Governor to establish a jobs commission to serve until
 June 30, 1985; 83 Acts, ch 207, § 2, 92 (SF 548)

7A.4 State agencies and officers to co-operate. All state agencies and officers shall provide the office for planning and programming with any information it requests pertaining to its duties under this chapter, shall assist the office in carrying out its duties, and shall provide the office with a copy of all official grant-in-aid applications, together with a copy of any program plan developed to meet federal requirements, prior to submission of an application to the federal government.

(83 Acts, ch 101, § 1) SF 136
 Amended

7A.41. Short title. This division may be cited as the "Iowa community development loan program".

(83 Acts, ch 207, § 42, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 7A.41 through 7A.49.

NEW section

7A.42 Intent. The purpose of this division is to assist Iowa communities in the construction and improvement of public works and facilities which support and enhance local economic development by the creation of the Iowa community development loan program.

(83 Acts, ch 207, § 43, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 7A.41 through 7A.49.

NEW section

7A.43 Establishment of program.

1. The Iowa community development loan program is established to aid communities in improving and developing adequate public works and facilities needed to support local economic development projects by providing a revolving loan fund.

2. The program is administered by the office for planning and programming.

3. The program provides loans to cities for projects which address the following objectives:

a. The construction and improvement of public works and facilities needed for economic development.

b. The creation or retention of jobs especially in cities or cities located in counties with an unemployment rate higher than the statewide average.

c. The promotion of the expansion of existing business and industry.

d. The leveraging of local resources.

e. The creation of job opportunities for women and minorities.

4. The program shall provide that the moneys appropriated to the revolving loan fund shall be available as follows:

a. Twenty-five percent of the moneys shall be designated for cities with a population of less than five thousand.

b. Fifty percent of the moneys shall be designated for cities with a population of five thousand or more.

c. Twenty-five percent of the moneys shall be designated for any city.

d. Loans repaid which were from moneys designated for cities as provided in paragraph "a" or "b" shall be redesignated for those cities.

5. Job service of Iowa is required to supply information regarding unemployment rates to any city or county requesting it.

(83 Acts, ch 207, § 44, 93) SF 548

Effective June 25, 1983

NEW section

7A.44 Qualifications for loan program.

1. Any Iowa city is eligible to apply for and receive loans through the program. However, preference shall be given to cities or cities located in counties with unemployment rates higher than the statewide average.

2. Loans provided through the program shall be used to pay the cost of public works and facilities. "Public works and facilities" means "essential corporate purpose" and "general corporate purpose" as defined in section 384.24, subsections 3 and 4 and also means the acquisition of real property which is to be developed into an industrial park. "Cost" means all the costs of the project, including the cost of acquisition, construction, reconstruction and improvement, and all the items listed in section 384.24, subsection 5.

3. Funds provided through the loan program shall be matched with local cash

resources equal to not less than fifty percent of the amount loaned. All matching local cash resources shall be specifically committed to the accomplishment of the project for which the loan is made.

(83 Acts, ch 207, § 45, 93) SF 548

Effective June 25, 1983

NEW section

7A.45 Approval of loans.

1. Loans provided through the program are interest free.
2. The maximum amount of a loan made through the program is two hundred fifty thousand dollars.

3. Initial loans provided through the program shall be awarded, subject to the amounts designated as provided in section 7A.43, subsection 4, on a competitive basis to those community projects which meet the minimum qualifications of this division and which best meet the objectives of section 7A.43, subsection 3. Consideration shall be given to the payback methods proposed by each city, with preference shown to projects which offer shorter loan maturities and greater security of repayment to the state.

4. Prior to the receipt of the loan funds, each loan recipient shall pay to the state a loan origination fee in an amount equal to six-tenths of one percent of the loan amount. The fees shall be paid from private or local funds and shall be placed into the general fund of the state but shall only be used to defray the state's expense in operating the loan program.

5. Loan proceeds shall not be disbursed to a city until a loan agreement has been executed between the state office for planning and programming and that city.

(83 Acts, ch 207, § 46, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 7A.41 through 7A.49

NEW section

7A.46. Loan repayments.

1. A city shall repay funds borrowed in accordance with a loan agreement to be executed prior to the disbursement of a loan by the state.

2. In accordance with this division, additional loans shall be periodically awarded by the office for planning and programming. The additional loans shall be provided from funds not previously awarded and from repayments received from prior recipients of loans.

3. Loan repayments shall be returned to the program and shall not revert to the state's general fund.

(83 Acts, ch 207, § 47, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 7A.41 through 7A.49.

NEW section

7A.47 Rules. The office for planning and programming shall adopt rules pursuant to chapter 17A to implement this division.

(83 Acts, ch 207, § 48, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 7A.41 through 7A.49.

NEW section

7A.48 Annual report. The office for planning and programming shall submit to the governor, once each year, a report setting forth details of the operation of the program and shall make that report available to members of the general assembly upon their request.

(83 Acts, ch 207, § 49, 93) SF 548

Effective June 25, 1983

NEW section

7A.49 Loans not dependent on bonds. Notwithstanding any law to the contrary cities shall not be required to issue bonds to secure loans received by the city through the Iowa community development loan program.

(83 Acts, ch 207, § 51, 93) SF 548

Effective June 25, 1983

NEW section

CHAPTER 7B

JOB TRAINING PARTNERSHIP PROGRAM

NEW chapter

7B.1 Purpose. There is created a job training partnership program in the state for the purpose of supplementing and implementing the legislative requirements provided under the federal Job Training Partnership Act of 1982, Pub. L. No. 97-300. The general assembly shall provide the funds necessary to obtain federal funds to provide employment and training assistance to dislocated workers and shall authorize the appropriation of state funds to provide training to the economically disadvantaged. The program shall also establish policies and restrictions for job training and related services provided to certain unemployed individuals under the federal Act. The purpose of this chapter is also to establish eligibility guidelines for individuals receiving assistance under the state program and federal Act and to establish guidelines for administering the federal Act and state program through the use of service delivery areas designated by the office of the governor in accordance with the federal Act. The office of the governor and the state job training coordinating council shall consult with the legislative council or the appropriate appropriations subcommittees regarding the award to local service delivery areas of funds allocated to the state under Title III of the federal Act and funds mandated to be expended under this chapter.

(83 Acts, ch 207, § 77, 93) SF 548

Effective June 25, 1983

NEW section

7B.2 Definitions. As used in this chapter unless the context otherwise requires:

1. *"Federal Act"* means the Job Training Partnership Act of 1982, Pub. L. No. 97-300.
2. *"State program"* means the job training partnership program.
3. *"Dislocated worker"* includes but is not limited to an individual who:
 - a. Has been terminated or laid off, or who has received notice of termination or layoff, and is eligible for or has exhausted unemployment compensation benefits.
 - b. Is unlikely to return to the industry or occupation in which the individual was employed. Industry or occupation includes farming or the ownership and operation of a small business.
 - c. Has been terminated or received notice of termination as a result of the permanent closure or relocation of a plant, facility, or plant operation in which the individual was employed.
 - d. Is chronically unemployed, as determined by the Iowa department of job service and:
 - (1) Has limited opportunities for employment in the geographic area in which the individual resides; or
 - (2) Is an older individual who may face substantial barriers to employment because of age.
4. *"Economically disadvantaged"* includes the following:
 - a. A person who receives or is a member of a family which receives cash welfare payments under a federal, state, or local welfare program.
 - b. A person who is receiving food stamps under the federal Food Stamp Act of 1977.

c. A person who has or is a member of a family which has for six months prior to application for the program, exclusive of unemployment compensation, child support payments, and welfare payments, a total family income in relation to family size less than the higher of the following:

(1) The federal poverty level established by the federal office of management and budget; or

(2) Seventy percent of the income level adjusted for regional, metropolitan, urban, and rural differences and family size as determined annually by the secretary of the federal department of labor and known as the "lower living standard income level" under the federal Act.

5. "*Displaced homemaker*" means a person as defined in chapter 241.

6. "*Service delivery area*" means the geographic area designated by the office of the governor in accordance with section 101 of the federal Act to implement the federal Act within the state.

7. "*Unemployed individual*" means an individual who is without a job, who wants work, and who is available for work.

(83 Acts, ch 207, § 78, 93) SF 548

Effective June 25, 1983

NEW section

7B.3 Establishment and administration. The office of the governor in consultation with the general assembly shall establish a state program to complement, supplement, and implement the federal Act to provide training and related services for unemployed persons who are economically disadvantaged or who are dislocated workers. In administering this program the office of the governor shall do the following:

1. Execute the state responsibilities under Title I of part B of the federal Act.

2. Award grants to applicants who shall provide employment and training services to program participants directly and through contractual arrangements.

3. Distribute funds allocated to the state under Title II of the federal Act in accordance with section 202 of the federal Act.

4. Consult with the legislative council or the appropriate appropriations subcommittees and the state job training coordinating council.

5. Award state funds authorized to be expended under this chapter and funds allocated to the state under Title III of the federal Act in accordance with section 7B.5.

6. Provide eligibility criteria, performance standards, reporting standards, and management standards for the state program which conform to the requirements of the federal Act.

7. Provide technical assistance to service delivery areas for program development and proposal preparation.

8. Take steps to ensure that the programs which are established and the services which are provided under this chapter and the federal Act are coordinated to the extent feasible with existing state agencies, programs, and services.

9. Order audits which either shall be conducted by the auditor of state or the auditor's designee or shall be independently contracted as required by the federal Act and determined by the governor.

10. By January 15 of each year, the governor shall submit an annual report on the effectiveness of the state job training partnership program. The report shall include an estimate of funds to be allocated at the state level for administrative purposes.

11. Provide the secretary of the senate, chief clerk of the house, and members of the legislative council with copies of quarterly performance reports submitted by the office of the governor in accordance with the federal Act and copies of annual financial reports submitted to the office of the governor by the local private industry councils. The office of the governor and the private industry councils shall provide

copies of reports and other information upon the request of a member of the general assembly.

(83 Acts, ch 207, § 79, 93) SF 548

Effective June 25, 1983

NEW section

7B.4 Services provided.

1. Services to the economically disadvantaged under the state program may include activities permitted under section 204 of the federal Act and any supportive services which are not inconsistent with the federal Act.

2. Services to dislocated workers under the state program may include those activities permitted under section 303 of the federal Act.

3. Funds allocated to the state and appropriated by the state under the federal Act shall not be used in a workfare program except as provided in subsection 4, paragraphs "a", "b", and "d".

4. Priority under this section is accorded any training services which include:

a. On-the-job training.

b. Classroom training.

c. A combination of work experience and remedial education.

d. Job search assistance, including jobs clubs.

e. Tuition assistance for appropriate state approved classroom and vocational-technical programs.

5. Services provided under this section shall be provided in a nondiscriminatory manner and shall promote training in traditional and nontraditional employment opportunities for all persons.

6. After consultation with the appropriate state agencies, the office of the governor shall provide, using state funds if necessary where federal funds are limited by the federal Act, training allowances, expenses, stipends, and supportive services which enable eligible persons to participate in state training services.

7. Permissible supportive services provided for Title III program participants include, but are not limited to, the provision of financial counseling, transportation assistance, or child care to eligible persons.

(83 Acts, ch 207, § 80, 93) SF 548

Effective June 25, 1983

NEW section

7B.5 Title III grant awards.

1. Except for funds reserved for administration and for state administered statewide programs under Title III, the office of the governor shall distribute by grant awards to local service delivery areas, the remainder of federal funds allocated to the state under Title III of the federal Act and the state funds which are appropriated for Title III programs.

2. An applicant for grants shall submit a grant application to the office of the governor for each grant sought. The application shall indicate the concurrence of the private industry council and the appropriate elected officials within the service delivery areas. Separate applications shall be submitted for training the economically disadvantaged and retraining for dislocated workers.

3. The office of the governor shall consider all of the following factors in determining grant awards:

a. The need for the proposed training and retraining.

b. Evidence of local effort to support the proposed activities through public or private funds or in-kind contributions.

c. The demonstrated effectiveness of the grant applicant in providing training or retraining.

d. Documentation that the proposed program will prepare participants for specific employment opportunities or occupations projected to be in demand in the local economy.

e. Documentation that the proposed program is nondiscriminatory and will prepare persons for traditional and nontraditional occupations.

4. Service delivery areas proposing to conduct retraining shall coordinate with the local office of the Iowa department of job service to identify individuals who will be eligible for the program.

(83 Acts, ch 207, § 81, 93) SF 548

Effective June 25, 1983

NEW section

CHAPTER 8

BUDGET AND FINANCIAL CONTROL ACT

8.6 Specific powers and duties. The specific duties of the state comptroller shall be:

1. *Audit of claims.* To audit all demands by the state, and to preaudit all accounts submitted for the issuance of warrants.

2. *Collection and payment of funds — monthly payments.* To control the payment of all moneys into the treasury, and all payments from the treasury by the preparation of appropriate warrants, or warrant checks, directing such collections and payment and to advise the state treasurer monthly in writing of the amount of public funds not currently needed for operating expenses. Whenever the state treasury includes state funds that require distribution to counties, municipalities or other political subdivisions of this state, and said counties, municipalities and other political subdivisions do certify to the state comptroller that warrants will be stamped for lack of funds within the thirty-day period following said certification, the state comptroller may partially distribute such funds on a monthly basis. Whenever the Code requires that any fund be paid by a specific date, the comptroller shall prepare a final accounting and shall make a final distribution of any remaining funds prior to that date.

3. *Contracts.* To certify, record and encumber all formal contracts to prevent overcommitment of appropriations and allotments.

4. *Forms.* To prescribe all accounting and business forms and the system of accounts and reports of financial transactions by all departments and agencies of the state government other than those of the legislative branch, and to consult with all state officers and agencies which receive reports and forms from county officers, in order to devise standardized reports and forms which will permit computer processing of the information submitted by county officers, and to prescribe forms on which each municipality, at the time of preparing estimates required under section 24.3, shall be required to compile in parallel columns the following data and estimates for immediate availability to any taxpayer upon request:

a. For the immediate prior fiscal year, revenue from all sources, other than revenue received from property taxation, allocated to each of the several funds and separately stated as to each such source, and for each fund the unencumbered cash balance thereof at the beginning and end of the year, the amount received by property taxation allocated to each fund, and the amount of actual expenditure for each fund.

b. For the current fiscal year, actual and estimated revenue, from all sources, other than revenue received from property taxation, and separately stated as to each such source, allocated to each of the several funds, and for each fund the actual unencumbered cash balance available at the beginning of the year, the amount to be received from property taxation allocated to each fund, and the amount of actual and estimated expenditures, whichever is applicable.

c. For the proposed budget year, an estimate of revenue from all sources, other than revenue to be received from property taxation, separately stated as to each such source, to be allocated to each of the several funds, and for each fund the actual or

estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amount proposed to be received from property taxation allocated to each fund, and the amount proposed to be expended during the year plus the amount of cash reserve, based on actual experience of prior years, which shall be the necessary cash reserve of the budget adopted exclusive of capital outlay items. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated or actual unencumbered balances at the beginning of the year and less the estimated income from all sources other than property taxation shall equal the amount to be received from property taxes, and such amount shall be shown on the proposed budget estimate.

d. To insure uniformity, accuracy, and efficiency in the preparation of budget estimates by municipalities subject to chapter 24, the comptroller shall prescribe the procedures to be used and instruct the appropriate officials of the various municipalities on implementation of the procedures.

5. *Accounts.* To keep the central budget and proprietary control accounts of the state government. Budget accounts are those accounts maintained to control the receipt and disposition of all funds, appropriations and allotments. Proprietary accounts are those accounts relating to assets, liabilities, income and expense.

6. *Preaudit system.* To establish and fix a reasonable imprest cash fund for each state department and institution for disbursement purposes where needed; provided, that these revolving funds shall be reimbursed only upon vouchers approved by the state comptroller. It is the purpose of this subdivision to establish a preaudit system of settling all claims against the state, but the preaudit system shall not be applicable to the institutions under the control of the state board of regents or to the state fair board.

7. *Fair board and board of regents.* To control the financial operations of the state fair board and the institutions under the state board of regents:

a. By charging all warrants issued to the respective educational institutions and the state fair board to an advance account to be further accounted for and not as an expense which requires no further accounting.

b. By charging all collections made by the educational institutions and state fair board to the respective advance accounts of the institutions and state fair board, and by crediting all such repayment collections to the respective appropriations and special funds.

c. By charging all disbursements made to the respective allotment accounts of each educational institution or state fair board and by crediting all such disbursements to the respective advance and inventory accounts.

d. By requiring a monthly abstract of all receipts and of all disbursements, both money and stores, and a complete account-current each month from each educational institution and the state fair board.

8. *Custody of records.* To have the custody of all books, papers, records, documents, vouchers, conveyances, leases, mortgages, bonds and other securities appertaining to the fiscal affairs and property of the state, which are not required to be kept in some other office.

9. *Apportionment of interest.* To apportion the interest of the permanent school fund on the first Monday of March of each year, among the area education agencies of this state in proportion to the number of persons between five and twenty-one years of age in each, as shown by the last report filed with the state comptroller by the superintendent of public instruction.

10. *Report of standing appropriations.* To biennially prepare a separate report containing a complete list of all standing appropriations showing the amount of each appropriation and the purpose for which such appropriation is made and furnish a copy of such report to each member of the general assembly on or before the first day of each regular session.

11. *Budget document.* To prepare the budget document and draft the legislation to make it effective.

12. *Allotments.* To perform the necessary work involved in reviewing requests for allotments as are submitted to the governor for approval.

13. *Certification for levy.* On February 1 the state comptroller shall, for each year of the biennium, certify to the department of revenue, the amount of money to be levied for general state taxes.

14. *Investigations.* To make such investigations of the organization, activities and methods of procedure of the several departments and establishments as he may be called upon to make by the governor or the governor and executive council, or the legislature.

15. *Legislative aid.* To furnish to any committee of either house of the legislature having jurisdiction over revenues or appropriations such aid and information regarding the financial affairs of the government as it may request.

16. *Rules.* To make such rules, subject to the approval of the governor, as may be necessary for effectively carrying on the work of the state comptroller's office. The comptroller may, with the approval of the executive council, require any state official, agency, department or commission, to require any applicant, registrant, filer, permit holder or license holder, whether individual, partnership, trust or corporation, to submit to said official, agency, department or commission, the social security or the tax number or both so assigned to said individual, partnership, trust or corporation.

17. *Budget report.* The comptroller shall prepare and file in his office, on or before the first day of December of each even-numbered year, a state budget report, which shall show in detail the following:

a. Classified estimates in detail of the expenditures necessary, in his judgment, for the support of each department and each institution and department thereof for the ensuing biennium.

b. A schedule showing a comparison of such estimates with the askings of the several departments for the current biennium and with the expenditures of like character for the last two preceding bienniums.

c. A statement setting forth in detail his reasons for any recommended increases or decreases in the estimated requirements of the various departments, institutions and departments thereof.

d. Estimates of all receipts of the state other than from direct taxation and the sources thereof for the ensuing biennium.

e. A comparison of such estimates and askings with receipts of a like character for the last two preceding bienniums.

f. The expenditures and receipts of the state for the last completed fiscal year, and estimates of the expenditures and receipts of the state for the current fiscal year.

g. A detailed statement of all appropriations made during the two preceding bienniums, also of unexpended balances of appropriations at the end of the last fiscal year and estimated balances at the end of the current fiscal year.

h. Estimates in detail of the appropriations necessary to meet the requirements of the several departments and institutions for the next biennium.

i. Statements showing:

(1) The condition of the treasury at the end of the last fiscal year.

(2) The estimated condition of the treasury at the end of the current fiscal year.

(3) The estimated condition of the treasury at the end of the next biennium, if his recommendations are adopted.

(4) An estimate of the taxable value of all the property within the state.

(5) The estimated aggregate amount necessary to be raised by a state levy.

(6) The amount per thousand dollars of taxable value necessary to produce such amount.

(7) Such other data or information as the comptroller may deem advisable.

18. *General control.* To perform such other duties as may be required to effectively control the financial operations of the government as limited by this chapter.

19. *Department of human services.* For the purpose of performing the duties of

the comptroller provided in this chapter as applied to the divisions of the department of human services controlling state institutions, the comptroller shall assign an employee of his office to check and audit all claims against such directors before such claims are approved by such directors. He shall keep all records and accounts relating to the expenditures of the directors. He shall, in the checking and auditing of claims against the directors and keeping the records and accounts of such directors, be under the direction and supervision of the comptroller, and act as an agent of said comptroller. The commissioner of the department of human services shall furnish said employee of the comptroller with office space and such help and assistants as may be necessary to properly perform the duties therein specified.

20. *Workers' compensation claims.* To employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, and 86, or with the approval of the executive council contract for such services or purchase workers' compensation insurance coverage for state employees or selected groups of state employees. The state comptroller shall quarterly determine an appropriate amount, based upon the cost of workers' compensation insurance, that shall be collected from the agencies, departments or divisions which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund and such payments shall be deposited in the general fund.

(83 Acts, ch 96, § 157, 159) SF 464
Subsection 19 amended

8.15 Vouchers. Before a warrant or equivalent is issued for a claim payable from the state treasury, the department shall file an itemized voucher showing in detail the items of service, expense, thing furnished, or contract for which payment is sought. The claimant's original invoice shall be attached to a department's approved voucher. The comptroller shall adopt rules specifying the form and contents for invoices submitted by a vendor to a department. The requirements apply to acceptance of an invoice by a department. A department, the general assembly, or the courts shall not impose additional or different requirements on submission of invoices than those contained in rules of the comptroller unless the comptroller exempts the department from the invoice requirements or a part of the requirements upon a finding that compliance would result in poor accounting or management practices.

Vouchers for postage, stamped envelopes, and postal cards may be audited as soon as an order therefor is entered.

The departments, the general assembly and the courts shall pay their claims in a timely manner. If a claim for services, supplies, materials or a contract which is payable from the state treasury remains unpaid after sixty days following the receipt of the claim or the satisfactory delivery, furnishing or performance of the services, supplies, materials, or contract, whichever date is later, the state shall pay interest at the rate of one percent per month on the unpaid amount of the claim. This paragraph does not apply to claims against the state under chapters 25 and 25A or to claims paid by federal funds. The interest shall be charged to the appropriation or fund to which the claim is certified. The state comptroller shall adopt rules under chapter 17A relating to the administration of this paragraph.

(83 Acts, ch 143, § 1) SF 471
Unnumbered paragraph 1 amended
(83 Acts, ch 142, § 8, 10) SF 527
Effective for claims received after January 1, 1984
NEW unnumbered paragraph 3

8.33 Limit of expenditures — reversion. No obligation of any kind whatsoever shall be incurred or created subsequent to the last day of the fiscal term for which an appropriation is made, except when specific provision otherwise is made in the Act making the appropriation. On the last day of the fiscal term it shall be

the duty of the head of each department, board, or commission, or officer receiving the appropriation under any Act, to file with the state comptroller a list of all obligations incurred, and for which warrants have not been drawn, up to and including that date. On September 30, or as otherwise provided in an appropriation Act, following the close of each fiscal term all unencumbered or unobligated balances of appropriations made for said fiscal term shall revert to the state treasury and to the credit of the fund from which the appropriation or appropriations were made, except that capital expenditures for the purchase of land or the erection of the buildings or new construction shall continue in force until the attainment of the object or the completion of the work for which such appropriations are made unless the Act making the appropriation for the capital expenditure contains a specific provision relating to a time limit for incurring an obligation or reversion of funds. This section shall not be construed to repeal the provisions of sections 19.11 to 19.14.

No payment of an obligation for goods and services shall be charged to an appropriation subsequent to the last day of the fiscal term for which the appropriation is made unless such goods or services are received on or before the last day of the fiscal term, except that repair projects and other contracts for services and capital expenditures for the purchase of land or the erection of buildings or new construction, which were committed and in progress prior to the end of the fiscal term are excluded from this provision.

(83 Acts, ch 172, § 1) SF 540

Effective June 4, 1983

NEW unnumbered paragraph 2

CHAPTER 8C

MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

NEW chapter

8C.1 Low-level radioactive waste compact. The midwest interstate low-level radioactive waste compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I — POLICY AND PURPOSE

There is created the "Midwest Interstate Low-Level Radioactive Waste Compact".

The states party to this compact recognize that the congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. sec. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

a. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;
2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;
3. Protecting the health and safety of the citizens of the region;
4. Limiting the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;

5. Encouraging the reduction of the amounts of low-level radioactive waste generated in the region;
6. Distributing the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste; and
7. Ensuring the ecological and economical management of low-level radioactive wastes.
 - b. Implicit in the congressional consent to this compact is the expectation by the congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:
 1. Expeditious enforcement of federal rules, regulations, and laws;
 2. Imposition of sanctions against those found to be in violation of federal rules, regulations, and laws; and
 3. Timely inspection of their licensees to determine their compliance with these rules, regulations, and laws.

ARTICLE II — DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

- a. "*Care*" means the continued observation of a facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.
- b. "*Commission*" means the midwest interstate low-level radioactive waste commission.
- c. "*Decommissioning*" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.
- d. "*Disposal*" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.
- e. "*Eligible state*" means a state qualified to be a party state to this compact as provided in article VIII.
- f. "*Facility*" means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.
- g. "*Generator*" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the United States nuclear regulatory commission or a party state, to produce or possess such waste. "Generator" does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region.
- h. "*Host state*" means any state which is designated by the commission to host a regional facility.
- i. "*Low-level radioactive waste*" or "*waste*" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954.
- j. "*Management plan*" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region.
- k. "*Party state*" means any eligible state which enacts the compact into law.
- l. "*Person*" means any individual, corporation, business enterprise, or other legal

entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, business enterprise, or legal entity.

m. "Region" means the area of the party states.

n. "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission.

o. "Site" means the geographic location of a facility.

p. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

q. "Storage" means the temporary holding of waste for treatment or disposal.

r. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

s. "Waste management" means the storage, transportation, treatment, or disposal of waste.

ARTICLE III — THE COMMISSION

a. There is created the midwest interstate low-level radioactive waste commission. The commission consists of one voting member from each party state. The governor of each party state shall notify the commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each commission member shall be the responsibility of the member's respective state.

b. Each commission member is entitled to one vote. No action of the commission is binding unless a majority of the total membership cast their vote in the affirmative.

c. The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of the federal Administrative Procedure Act (5 U.S.C. secs. 500 to 559) in regard to notice, conduct, and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d. The commission shall meet at least once annually and shall also meet upon the call of the chairperson or a commission member.

e. All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded.

f. The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management.

g. The office of the commission shall be in a party state. The commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

h. The commission may:

1. Enter into an agreement with any person, state, or group of states for the right

to use regional facilities for waste generated outside the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.

2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

3. Appear as an intervenor or party in interest before any court of law or any federal, state, or local agency, board, or commission in any matter related to waste management. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence, or other participation.

4. Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected.

5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with article VIII.

i. The commission shall:

1. Receive and act on the petition of a nonparty state to become an eligible state.

2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission.

3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to article IV, a regional management plan which designates host states for the establishment of needed regional facilities.

5. Adopt an annual budget.

j. Funding of the budget of the commission shall be provided as follows:

1. Each state, upon becoming a party state, shall pay fifty thousand dollars or one thousand dollars per cubic meter shipped from that state in 1980, whichever is lower, to the commission which shall be used for the administrative costs of the commission.

2. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

(a) Be sufficient to cover the annual budget of the commission; and

(b) Represent the financial commitments of all party states to the commission; and

(c) Be paid to the commission, provided, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the commission.

k. The commission shall keep accurate accounts of all receipts and disbursements. The commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of commission funds, and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this article.

l. The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation. The nature, amount, and condition, if any, attendant upon any donation or grant

accepted or received by the commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission.

m. The commission is not liable for any costs associated with any of the following:

1. The licensing and construction of any facility;
2. The operation of any facility;
3. The stabilization and closure of any facility;
4. The care of any facility;
5. The extended institutional control, after care of any facility; or
6. The transportation of waste to any facility.

n. 1. The commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the commission are not liabilities of the party states. Members of the commission are not personally liable for actions taken by them in their official capacity.

2. Except as provided under section *m* and section *n*, subsection 1, nothing in this compact alters liability for any act, omission, course of conduct, or liability resulting from any causal or other relationships.

o. Any person aggrieved by a final decision of the commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within sixty days after the commission's final decision.

ARTICLE IV — REGIONAL MANAGEMENT PLAN

The commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the commission shall:

a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region;

b. Develop and consider policies promoting source reduction of waste generated within the region;

c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the commission shall consider all the following:

1. The health, safety, and welfare of the citizens of the party states.
2. The existence of regional facilities within each party state.
3. The minimization of waste transportation.
4. The volumes and types of wastes generated within each party state.
5. The environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

d. Conduct such hearings, and obtain such reports, studies, evidence, and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility;

e. Prepare a draft management plan, including procedures, criteria, and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the commission's response to public and party state comment.

ARTICLE V — RIGHTS AND OBLIGATIONS OF PARTY STATES

a. Each party state shall act in good faith in the performance of acts and courses

of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b. Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in article IX, section c. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the commission pursuant to article III.

c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to commission approval under article III.

d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations, and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the United States nuclear regulatory commission.

e. Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

ARTICLE VI — DEVELOPMENT AND OPERATION OF FACILITIES

a. Any party state may volunteer to become a host state, and the commission may designate that state as a host state upon a two-thirds vote to its members.

b. If all regional facilities required by the regional management plan are not developed pursuant to section a, or upon notification that an existing regional facility will be closed, the commission may designate a host state.

c. Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations, and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, and economic viability of possible facility locations.

d. Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. The commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

e. After a state is designated a host state by the commission, it is responsible for the timely development and operation of a regional facility.

f. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

g. The commission may designate a party state as a host state while a regional facility is in operation if the commission determines that an additional regional facility is or may be required to meet the needs of the region. The commission shall make this designation following the procedures established under article IV.

h. Designation of a host state is for a period of twenty years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the commission may modify the period of its designation.

i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs, including but not

limited to the planning, siting, licensure, operation, decommissioning, extended care, and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the commission. A host state shall submit an annual financial audit of the operation of the regional facility to the commission. The fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

k. A host state intending to close a regional facility located within its borders shall notify the commission in writing of its intention and the reasons. Notification shall be given to the commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land, and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the commission in writing within three working days of its action and shall, within thirty working days of its action, demonstrate justification for the closing.

l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the commission until a regional facility is operational.

m. A party state which is designated as a host state by the commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.

ARTICLE VII — OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any storage or treatment of waste by the generator on its own premises;

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

6. Affects the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the secretary of the United States department of energy or successor agencies or federal research and development activities as defined in 42 U.S.C. sec. 2021; or

7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state or its political subdivisions to tax or impose fees on the waste managed at any facility within its border.

8. Requires a party state to enter into any agreement with the United States nuclear regulatory commission.

9. Alters or limits liability of transporters of waste, owners, and operators of sites for their acts, omissions, conduct, or relationships in accordance with applicable laws.

b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

c. No law, rule, or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

ARTICLE VIII — ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION,
ENTRY INTO FORCE, TERMINATION

a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia, and Wisconsin. Eligibility terminates on July 1, 1984.

b. Any state not eligible for membership in the compact may petition the commission for eligibility. The commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in article III, section i, subsection 1.

d. The commission is formed upon the appointment of commission members and the tender of the membership fee payable to the commission by three party states. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provisions of this compact.

e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the commission and to the governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the commission in accordance with article III, section h, subsection 6. Revocation takes effect one year from the date the affected party state receives written notice from the commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote of the commission to the governor of the affected party state, all other governors of the party states and the congress of the United States.

g. This compact becomes effective July 1, 1983, or at any date subsequent to July 1, 1983, upon enactment by at least three eligible states. However, article IX, section b shall not take effect until the congress has by law consented to this compact. The congress shall have an opportunity to withdraw such consent every five years. Failure of the congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five-year period. The consent given to this compact by the

congress shall extend to any future admittance of new party states under sections *b* and *c* of this article and to the power of the region to ban the shipment of waste from the region pursuant to article III.

h. The withdrawal of a party state from this compact under section *e* of this article or the revocation of a state's membership in this compact under section *f* of this article does not affect the applicability of this compact to the remaining party states.

i. A state which has been designated by the commission to be a host state has ninety days from receipt by the governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section *e*. A designated host state which withdraws from the compact after ninety days and prior to fulfilling its obligations shall be assessed a sum the commission determines to be necessary to cover the costs borne by the commission and remaining party states as a result of that withdrawal.

ARTICLE IX — PENALTIES

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b. Unless otherwise authorized by the commission pursuant to article III, section *h* after January 1, 1986, it is a violation of this compact:

1. For any person to deposit at a regional facility waste not generated within the region;

2. For any regional facility to accept waste not generated within the region;

3. For any person to export from the region waste which is generated within the region; or

4. For any person to dispose of waste at a facility other than a regional facility.

c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules, and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

d. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

ARTICLE X — SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

(83 Acts, ch 8, § 1) SF 195

NEW section

CHAPTER 9

SECRETARY OF STATE

9.6 Iowa official register. In odd-numbered years, the secretary of state shall compile for publication the Iowa official register which shall contain historical, political, and other statistics of general value, but nothing of a partisan character.

(83 Acts, ch 196, § 10) SF 530

See § 17.20

NEW section

CHAPTER 11

AUDITOR OF STATE

11.21 Repayment — objections. Upon payment by the state of the salary and expenses, the auditor of state shall file with the warrant-issuing officer of the county, municipality or school, whose offices were examined, a sworn statement consisting of the itemized expenses paid and prorated salary costs paid under section 11.20. Upon audit and approval by the board of supervisors, council or school board, the warrant-issuing officer shall draw a warrant for the amount on the county, or on the general fund of the municipality or school in favor of the auditor of state, which warrant shall be placed to the credit of the general fund of the state. In the event of the disapproval of any items of said statement by the county, municipality, or school authorities, written objections shall be filed with the auditor of state within thirty days from the filing thereof. Disapproved items of the statement shall be paid the auditor of state upon receiving final decisions emanating from public hearing established by the auditor of state.

Whenever the county board of supervisors, the school board, or the council shall file written objections on the question of compensation and expenses with the auditor of state, he or his representative shall hold a public hearing in the municipality where the examination was made and shall give the complaining board notice of the time and place of hearing. After such hearing he shall have the power to reduce the compensation and expenses of the auditor whose bills have been questioned. Any auditor who shall be found guilty of falsifying his expense vouchers or engagement report shall be immediately discharged by the auditor of state and shall not be eligible for re-employment. Such auditor must thereupon reimburse the auditor of state for all such compensation and expenses so found to have been overpaid to him and in the event of his failure to do so, the auditor of state may collect the same amount from the auditor's bondsman by suit, if necessary.

(83 Acts, ch 123, § 28, 209) HF 628

Unnumbered paragraph 1 amended

11.22 Uniform system of accounting. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

11.23 Duty to install. Each school officer shall install and use in the office a system of uniform blanks and forms as prescribed by law. State auditors shall assist the school officers in installing the system.

(83 Acts, ch 123, § 29, 209) HF 628

Amended

CHAPTER 12

TREASURER OF STATE

12.9 Annual report of filing fees. The treasurer of state shall annually report to the governor and the general assembly the total amount of fees and costs received by the treasurer of state under sections 602.8105, 602.8106, 602.8107,* and 602.8108 for the fiscal year ending June 30. The report shall be submitted within ninety days following the completion of the fiscal year.

(83 Acts, ch 186, § 10003, 10201, 10204) SF 495

*Section 602.8107 is void, apparently effective July 1, 1984; corrective legislation may be required

Amended

12.10 Deposits by state officers. All elective and appointive state officers, boards, commissions, and departments, except the state fair board, the state board of regents, Iowa state commerce commission, and the commissioner of the department of human services, shall, within ten days succeeding the collection thereof, deposit, with the treasurer of state, or to the credit of the treasurer of state in any depository designated by the treasurer of state, ninety percent of all fees, commissions, and moneys collected or received; the balance actually collected in cash, remaining in the hands of any officer, board, or department shall not exceed the sum of five thousand dollars and money collected shall not be held more than thirty days. This section does not apply to the Iowa housing finance authority or to the funds received by the state racing commission under section 99D.14.

(83 Acts, ch 187, § 29) SF 92

Amended

(83 Acts, ch 96, § 157, 159) SF 464

See Code editor's note at the end of this Supplement

Amended

CHAPTER 13

ATTORNEY GENERAL

13.6 Assistant for human services department. The attorney general may appoint one assistant attorney general to perform and supervise the legal work of the division of child and family services of the department of human services, and in such event the salary and necessary traveling expenses of such assistant attorney general shall be paid from the appropriation to said division, and upon request of the attorney general the commissioner of the department of human services shall provide and equip a suitable office and the necessary secretarial assistance for such assistant attorney general.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

13.7 Special counsel. Compensation shall not be allowed to any person for services as an attorney or counselor to an executive department of the state government, or the head thereof, or to a state board or commission. However, the executive council may employ legal assistance, at a reasonable compensation, in a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform the service, which reasons and action of the council shall be entered upon its records. When the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is

qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section does not affect the general counsel for the Iowa state commerce commission, the transportation regulation authority counsel, the legal counsel of the Iowa department of job service or the office of consumer advocate.

(83 Acts, ch 127, § 1) HF 312

Amended

CHAPTER 13B

APPELLATE DEFENDER

13B.6 Account established.

1. There is established in the state general fund an account to be known as the appellate defender operating account. The appellate defender may bill a county for services rendered to the county by the office of the appellate defender. Receipts shall be deposited in the operating account established under this section. There is appropriated from the state general fund all amounts deposited in the appellate defender operating account for use in maintaining the operations of the office of appellate defender.

2. The criminal and juvenile justice planning agency shall provide internal accounting and related fiscal services for the office of the appellate defender as requested by the appellate defender.

(83 Acts, ch 200, § 10) HF 627

Amended; NEW subsection 2

13B.7 Supervisory duty. The appellate defender may supervise the provision of legal services, funded by an appropriation to the Iowa department of corrections, to inmates of adult correctional institutions in civil cases involving prison litigation.

(83 Acts, ch 203, § 12) SF 532

NEW section

(83 Acts, ch 96, § 160) SF 464

Amended

CHAPTER 14

CODE EDITOR

14.10 Session laws.

1. The size, style, type, binding, general arrangement and tables of the session laws shall be printed and published in such manner as specified by the Code editor in consultation with the legislative council.

2. The Acts of each general assembly shall be arranged in the order determined by the Code editor and approved by the legislative council.

3. Chapters of the first regular session shall be numbered from one and chapters of the second regular session shall be numbered from one thousand one.

4. A list of elective state officers and deputies, supreme court justices, judges of the court of appeals, and members of the general assembly shall be published annually with the session laws.

5. There shall also be inserted in the session laws, the statement of the condition of the state treasury as provided by the Constitution. Said statement shall be furnished by the state comptroller.

6. The enrolling clerks of the house and senate shall make arrangements whereby the Code editor will receive suitable copies of all Acts and resolutions as soon as the same are enrolled.

(83 Acts, ch 186, § 10004, 10201) SF 495

Amended

14.21 Publication of parts of Code. The Code editor in consultation with the superintendent of printing may cause to be printed from time to time, in the form of leaflets, folders, or pamphlets and in such numbers as the Code editor deems reasonable, parts of the Code for the use of public officers. The orders shall be limited to actual needs as shown by experience or other competent proof, and the printing shall be done in an economical manner approved by the legislative council.

Commencing July 1, 1977, the Code editor shall cause to be compiled, indexed and published in loose-leaf form the Iowa court rules, which shall consist of all rules of civil procedure, rules of criminal procedure, rules of appellate procedure, and supreme court rules. The Code editor shall cause to be distributed supplements to the compilation on or before the effective date of either new rules, or amendments to or the repeal of existing rules. All expenses incurred by the Code editor under this paragraph shall be defrayed under section 14.22. There shall be established a price for the compilation of rules, and a separate price for each supplement. The price of the compilation and of supplements shall represent the costs of compiling and indexing, the amounts charged for printing and distribution and a cost for labor determined jointly by the legislative council and rules review committee in consultation with the state printer. On request a single copy of each compilation and of each supplement shall be distributed free of charge to each of the persons or agencies referred to in section 18.97, subsections 1, 2, 5, 6, 7, 8 and 15.

(83 Acts, ch 181, § 1) SF 550

Amended

CHAPTER 17

OFFICIAL REPORTS AND DOCUMENTS

17.3 Biennial reports — time covered and date of filing. Reports of the following officials and departments shall cover the biennial period ending June 30 in each even-numbered year, and shall be filed as soon as practicable after the end of the reporting period:

1. State comptroller on fiscal condition of state.
2. Treasurer of state as to the condition of the treasury.
3. Secretary of agriculture.
4. Superintendent of public instruction.
5. Commissioner of the department of human services.
6. Board of regents.
7. Superintendent of printing.
8. Industrial commissioner.
9. Commissioner of public health.
10. Commissioner of labor.
11. State historical board.
12. State librarian.
13. Library commission.
14. Department of general services.
15. State conservation director.
16. Adjutant general.

The officials and departments required by this section to file biennial reports shall, in addition thereto, in each odd-numbered year, file summary reports relating to their operations for the preceding fiscal year. Such reports shall be filed as soon as practicable after June 30 of each odd-numbered year and shall be as detailed as may be required by the governor, or in case the reports are to be filed with the general assembly, the presiding officers of the two houses of the general assembly.

The officials and departments required by this section to file reports shall submit the reports on standardized forms furnished by the state comptroller. All officials

and agencies submitting reports shall consult with the state comptroller and the director of the office of planning and programming, and shall devise standardized report forms for submission to the governor and members of the general assembly.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 5 amended

17.20 Miscellaneous documents.

Intent that Iowa official register be published by April 1, if practicable; 83 Acts, ch 196, § 2, (15) (SF 530)

17.22 Price. The publications listed in this section shall be sold at a price to be established by dividing the total cost of printing, binding, distribution and paper stock by the total number printed of each edition, and increasing the figure obtained by an amount, which represents all or any portion of compilation and editing labor costs, to be determined by the legislative council and rules review committee in consultation with the state printer.

1. Code or its supplements, the Iowa administrative code or its supplements, and the Iowa administrative bulletin.

2. Session laws.

3. Daily journals and bills.

4. Book of annotations to the Code.

5. Supplements to the book of annotations.

6. Tables of corresponding sections to the Code.

7. Iowa court rules.

The Iowa administrative code, its supplements, the Iowa administrative bulletin or the Code may be distributed with the Code or separately. There shall be established separate prices for the Iowa administrative code, for its supplements, for the Iowa administrative bulletin and for the Code.

When the Code is published in more than one volume the superintendent of printing may distribute each volume on order, after payment of the estimated purchase price for the set, when the volume becomes available.

(83 Acts, ch 181, § 2) SF 550

Amended

17.30 Inventory of state property. Each state board, commission, department and division of state government and each institution under the control of the department of human services and the state board of regents and each division of the state department of transportation shall be responsible for keeping a written, detailed, up-to-date inventory of all real and personal property belonging to the state and under their charge, control and management. Such inventories shall be in such form as may be prescribed by the director of the department of general services.

Inventories maintained in the files of each such agency of state government shall be open to public inspection and available for the information of the executive council and director of the department of general services.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

CHAPTER 17A

ADMINISTRATIVE PROCEDURE ACT

17A.2 Definitions. As used in this chapter:

1. "Agency" means each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the general assembly, the judicial department or any of its components, the office of consumer advocate, the governor or a political subdivision of the state or its offices and units. Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote

of a multimember agency constitute a quorum authorized to act in the name of the agency.

2. "*Contested case*" means a proceeding including but not restricted to ratemaking, price fixing, and licensing in which the legal rights, duties or privileges of a party are required by Constitution or statute to be determined by an agency after an opportunity for an evidentiary hearing.

3. "*License*" includes the whole or a part of any agency permit, certificate, approval, registration, charter or similar form of permission required by statute.

4. "*Licensing*" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.

5. "*Party*" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

6. "*Person*" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency.

7. "*Rule*" means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of an existing rule, but does not include:

a. A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

b. A declaratory ruling issued pursuant to section 17A.9, or an interpretation issued by an agency with respect to a specific set of facts and intended to apply only to that specific set of facts.

c. An intergovernmental, interagency, or intra-agency memorandum, directive, manual or other communication which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

d. A determination, decision, or order in a contested case.

e. An opinion of the attorney general.

f. Those portions of staff manuals, instructions or other statements issued by an agency which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would: (1) Enable law violators to avoid detection; or (2) facilitate disregard of requirements imposed by law; or (3) give a clearly improper advantage to persons who are in an adverse position to the state.

g. A specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, application fee, or other fees.

h. A statement concerning only the physical servicing, maintenance or care of publicly owned or operated facilities or property.

i. A statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals.

j. A decision by an agency not to exercise a discretionary power.

k. A statement concerning only inmates of a penal institution, students enrolled in an educational institution, or patients admitted to a hospital, when issued by such an agency.

8. "*Rule-making*" means the process for adopting, amending, or repealing a rule.

9. "*Agency action*" includes the whole or a part of an agency rule or other statement of law or policy, order, decision, license, proceeding, investigation, sanction, relief, or the equivalent or a denial thereof, or a failure to act, or any other exercise of agency discretion or failure to do so, or the performance of any agency duty or the failure to do so.

10. "Agency member" means an individual who is the statutory or constitutional head of an agency, or an individual who is one of several individuals who constitute the statutory or constitutional head of an agency.

(83 Acts, ch 127, § 2) HF 312

Subsection 1 amended

(83 Acts, ch 186, § 10005, 10201) SF 495

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 1 amended

17A.4 Procedure for adoption of rules.

1. Prior to the adoption, amendment, or repeal of any rule an agency shall:

a. Give notice of its intended action by submitting three copies of the notice to the administrative rules co-ordinator* who shall forward two copies to the Code editor for publication in the "Iowa Administrative Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

b. Afford all interested persons not less than twenty days to submit data, views or arguments in writing. If timely requested in writing by twenty-five interested persons, by a governmental subdivision, by the administrative rules review committee, by an agency, or by an association having not less than twenty-five members, the agency must give interested persons an opportunity to make oral presentation. The opportunity for oral presentation must be held at least twenty days after publication of the notice of its time and place in the Iowa administrative bulletin. The agency shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions of subsection 1, paragraph "a" or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the agency shall adopt a rule pursuant to the rule-making proceeding or shall terminate the proceeding by publishing notice of termination in the Iowa administrative bulletin. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons for overruling considerations urged against the rule.

c. Upon the request of at least two members of the administrative rules review committee publish in the Iowa administrative bulletin an estimate of the economic impact of a proposed rule upon all persons affected by it and upon the agency itself. If the agency determines that such an estimate cannot be formulated the reasons for impossibility of formulation shall be published instead of the estimate. An estimate shall be published at least fifteen days in advance of the adoption, amendment or repeal of the rule. In the case of a rule issued under subsection 2 or made effective under the provisions of section 17A.5, subsection 2, paragraph "b", an estimate, or the reasons for the impossibility of formulating an estimate shall be published within forty-five days of the request.

d. Mail the number of copies of the proposed rule as requested to the state office of a trade or occupational association which has registered its name and address with the agency. The trade or occupational association shall reimburse the agency for the actual cost incurred in providing the copies of the proposed rule under this paragraph. Failure to provide copies as provided in this paragraph shall not be grounds for the invalidation of a rule, unless that failure was deliberate on the part of that agency or the result of gross negligence.

2. When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable. The agency shall incorporate in each rule

issued in reliance upon this provision either the finding and a brief statement of the reasons therefor, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category. If the administrative rules review committee by a two-thirds vote, the governor or the attorney general files with the Code editor an objection to the adoption of any rule pursuant to this subsection, that rule shall cease to be effective one hundred eighty days after the date the objection was filed. A copy of the objection, properly dated, shall be forwarded to the agency at the time of filing the objection. In any action contesting a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

3. No rule adopted after July 1, 1975, is valid unless adopted in substantial compliance with the above requirements of this section. However, a rule shall be conclusively presumed to have been made in compliance with all of the above procedural requirements of this section if it has not been invalidated on the grounds of noncompliance in a proceeding commenced within two years after its effective date.

4. *a.* If the administrative rules review committee created by section 17A.8, the governor or the attorney general finds objection to all or some portion of a proposed rule because that rule is deemed to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency, the committee, governor or attorney general may, in writing, notify the agency of the objection prior to the effective date of such a rule. In the case of a rule issued under subsection 2, or a rule made effective under the terms of section 17A.5, subsection 2, paragraph "b", the committee, governor or attorney general may notify the agency of such an objection within seventy days of the date such a rule became effective. The committee, governor or the attorney general shall also file a certified copy of such an objection in the office of the Code editor within the above time limits and a notice to the effect that an objection has been filed shall be published in the next issue of the Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to it.

b. If the agency fails to meet the burden of proof prescribed for a rule objected to according to the provisions of paragraph "a" of this subsection, the court shall declare the rule or portion of the rule objected to invalid and judgment shall be rendered against the agency for court costs. Such court costs shall include a reasonable attorney fee and shall be payable by the state comptroller from the support appropriations of the agency which issued the rule in question.

5. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. Notice of an effective date that was delayed under this provision shall be published in the Iowa administrative code and bulletin.

6. The governor may rescind an adopted rule by executive order within thirty-five days of the publication of the rule. The governor shall provide a copy of the executive order to the Code editor who shall include it in the next publication of the Iowa administrative bulletin.

(83 Acts, ch 142, § 9) SF 527

*See § 7.17

Subsection 1 amended by adding NEW paragraph d

17A.13 Subpoenas — discovery.

1. Agencies have all subpoena powers conferred upon them by their enabling acts or other statutes. In addition, prior to the commencement of a contested case by the notice referred to in section 17A.12, subsection 1, an agency having power to decide contested cases may subpoena books, papers, records and any other real evidence necessary for the agency to determine whether it should institute a contested case proceeding. After the commencement of a contested case, each agency having power to decide contested cases may administer oaths and issue subpoenas in those cases. Discovery procedures applicable to civil actions are available to all parties in contested cases before an agency. Evidence obtained in discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. Agency subpoenas shall be issued to a party on request. On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with the law applicable to the issuance of subpoenas or discovery in civil actions. In proceedings for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of willful failure to comply.

2. An agency that relies on a witness in a contested case, whether or not an agency employee, who has made prior statements or reports with respect to the subject matter of the witness' testimony, shall, on request, make such statements or reports available to parties for use on cross-examination, unless those statements or reports are otherwise expressly exempt from disclosure by Constitution or statute. Identifiable agency records that are relevant to disputed material facts involved in a contested case, shall, upon request, promptly be made available to a party unless the requested records are expressly exempt from disclosure by Constitution or statute.

(83 Acts, ch 186, § 10006, 10201) SF 495
Subsection 1 amended

17A.20 Appeals. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court under this chapter by appeal. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

(83 Acts, ch 186, § 10007, 10201) SF 495
Amended

CHAPTER 18

GENERAL SERVICES DEPARTMENT

18.1 Definitions. When used in this chapter, unless the context otherwise requires:

1. "*Director*" means the director of the department of general services or his designee.

2. "*Department*" means the department of general services.

3. "*Governmental subdivision*" means a county, city, school district, or combination thereof.

4. "*Competitive bidding procedures*" means the advertisement for, solicitation of, or the procurement of bids; the manner and condition in which bids are received; and the procedure by which bids are opened, accepted, or rejected.

5. "*Bid specification*" means the standards or qualities which must be met before a contract to purchase will be awarded and any terms which the director has set as a condition precedent to the awarding of a contract.

6. "*State agency*" means an executive board, commission, bureau, division, office, or department of the state.

(83 Acts, ch 126, § 1) SF 356

Subsection 6 struck, former subsection 7 renumbered as 6

18.2 Department established. There is created a department of general services which is attached to the office of the governor and is under the governor's general direction, supervision, and control. The governor shall appoint the director, subject to confirmation by the senate. The director shall not hold any other office, engage in political activity, accept or solicit, directly or indirectly, political contributions, and shall not use the office to support the candidacy of anyone for elective or appointive office. The director shall hold office at the governor's pleasure and shall receive a salary as fixed by the general assembly. Before entering upon the discharge of the director's duties, the director may be required to give a surety bond in an amount fixed by the governor. The premium on the bond shall be paid out of funds appropriated to the department.

The director must be a qualified administrator.

(83 Acts, ch 101, § 2) SF 136

Amended

18.3 Duties. The duties of the director shall include but not necessarily be limited to the following:

1. Establishing and developing, in co-operation with the various state agencies, a system of uniform standards and specifications for purchasing. When the system is developed, all items of general use shall be purchased through the department, except items used by the state department of transportation, institutions under the control of the board of regents, the commission for the blind, and any other agencies exempted by law.

Life cycle cost and energy efficiency shall be included in the criteria used by the department of general services, institutions under the state board of regents, the state department of transportation, the commission for the blind and other state agencies in developing standards and specifications for purchasing energy consuming products. As used in this paragraph "life cycle cost" means the expected total cost of ownership during the life of a product.

Preference shall be given to purchasing American made products and purchases from American based businesses if the life cycle costs are comparable to those products of foreign businesses and which most adequately fulfill the department's need.

The director may purchase items through the state department of transportation, institutions under the control of the board of regents and any other agency exempted by law from centralized purchasing. These state agencies shall upon request furnish the director with a list of and specifications for all items of office equipment, furniture, fixtures, motor vehicles, heavy equipment and other related items to be purchased during the next quarter and the date by which the director must file with the agency the quantity of items to be purchased by the state agency for the department of general services. The department of general services shall be liable to the state agency for the proportionate costs the items purchased for it bear to the total purchase price. When items purchased have been delivered, the state agency shall notify the director and after receipt of the purchase price shall release the items to the director or upon his order.

2. Administering the provisions of sections 18.114 to 18.121.

3. Administering the provisions of sections 18.26 to 18.103.

4. Providing for the proper maintenance of the state capitol, grounds, and equipment and all other state buildings, grounds, and equipment at the seat of government, except those referred to in section 601B.6, subsection 9.

5. Administering sections 18.132 to 18.143.

6. Establishing, supervising, and maintaining a central mail unit for the use of all state officials, agencies, and departments located at the seat of government.

7. Installing a records system for the keeping of records which are necessary for a proper audit and effective operation of the department.

(83 Acts, ch 126, § 2) SF 356

Subsection 5 amended

18.75 Duties. The superintendent of printing shall:

1. Have an office at the seat of government and devote his entire time to the duties of his position.
2. Have charge of the office equipment and supplies of the printing board and of the stock, if any, required in connection with printing contracts.
3. Have general supervision of all matters pertaining to the enforcement of contracts for printing.
4. Prepare the specifications and advertisements for printing.
5. Have control and direction of the document department.
6. Have legal custody of all Codes, session laws, books of annotations, tables of corresponding sections, publications, except premium lists published by the Iowa state fair board, containing reprints of statutes or administrative rules, or both, reports of state departments, and reports of the supreme court, and sell, account for, and distribute the same as provided by law.
7. Be responsible on his official bond for the public property coming into his possession.
8. Perform such other duties as are necessary, or incident to his position, or which may be ordered by the director, or required by law.

(83 Acts, ch 200, § 11) HF 627

Subsection 8 struck; former subsection 9 renumbered as 8

18.97 Code, session laws, court rules, administrative rules and state roster. The superintendent of printing shall make free distribution of the Code, supplements to the Code, rules of civil procedure, rules of appellate procedure, rules of criminal procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, the Iowa administrative bulletin and the state roster pamphlet as follows:

1. To state law library for exchange purposes..... 100 copies
2. To law library of state University of Iowa for exchange purposes 75 copies
3. To state historical department..... 5 copies
4. To state historical society 5 copies
5. To each judge of the supreme court, the court of appeals and the district court, two copies; and to each district associate judge and each judicial magistrate 1 copy
6. To each judge of the federal courts in Iowa..... 1 copy
7. To the clerk of the supreme court of Iowa..... 1 copy
8. To the clerk of each federal court in Iowa 1 copy
9. To each state institution under the control of either the state board of regents or the state department of social services..... 1 copy
10. To each elective state officer 2 copies
11. To the separate departments of principal state offices and each major subdivision thereof 1 copy
12. To each member of the present and subsequent general assemblies..... 1 copy
13. To chief clerk of the house 1 copy
14. To secretary of the senate..... 1 copy
15. To the following offices such number of copies as will enable them to perform the duties of their respective offices.
 - a. Code editor.
 - b. Attorney general.
 - c. Legislative service bureau.
 - d. Legislative fiscal bureau.
 - e. State court administrator.
 - f. Each district court administrator.
16. To the clerk of the district court and each separate office of the clerk, the county attorney, the county auditor, the county recorder, county and city assessor,

the county treasurer, the sheriff and each separate office of a sheriff, the public defender's office, and the administrator of each area education agency in the state and also for use in each courtroom of the district court..... 1 copy

- 17. To the library of the United States supreme court 1 copy
 - 18. To the depository library center established pursuant to section 303A.22 ...
..... 75 copies
 - 19. To library of the United States department of justice..... 1 copy
 - 20. To library of the judge advocate general, United States department of defense..... 1 copy
 - 21. To library of the United States department of agriculture..... 1 copy
 - 22. To library of the United States department of labor..... 1 copy
 - 23. To legal staff, office of public debt, United States treasury department
..... 1 copy
 - 24. To library of the United States department of state..... 1 copy
 - 25. To law library of the United States department of the interior..... 1 copy
 - 26. To library of the United States department of internal revenue 1 copy
 - 27. To each member of the Iowa congressional delegation 1 copy
 - 28. To each board of supervisors for each county 1 copy
 - 29. To each juvenile referee 1 copy
- (83 Acts, ch 186, § 10008, 10009, 10201) SF 495
Subsection 15, paragraph e amended and NEW paragraph f added

18.98 Book of annotations and tables of corresponding sections. The superintendent of printing shall make free distribution of the book of annotations to the Code, and of the supplements to said book of annotations, and of the book of tables of corresponding sections of the Code, as follows:

- 1. To state law library for exchange purposes..... 60 copies
- 2. To law library of state University of Iowa for exchange purposes . 75 copies
- 3. To state historical department..... 2 copies
- 4. To state historical society 1 copy
- 5. To the office of each judge of the supreme court, court of appeals and district court, including district associate judges and judicial magistrates, and to each judge of the federal courts in Iowa 1 copy
- 6. To the office of each clerk of the federal courts in this state, and of the supreme and district courts of this state..... 1 copy
- 7. To the office of governor, secretary of state, auditor of state, treasurer of state, commissioner of insurance, general counsel for the Iowa state commerce commission, and consumer advocate, each..... 1 copy
- 8. To the office of attorney general..... 10 copies
- 9. To each member of the general assembly upon their request..... 1 copy
- 10. To the office of the Code editor 5 copies
- 11. To the office of each county auditor, and county attorney..... 1 copy
- 12. To each courtroom of the district courts..... 1 copy
- 13. To the library of the supreme court of the United States..... 1 copy
- 14. To the office of the legislative service bureau and to the office of the legislative fiscal bureau..... 1 copy

(83 Acts, ch 127, § 3) HF 312
Subsection 7 amended

18.115 Vehicle dispatcher — employees — duties. In order to carry out the powers vested in him by this chapter, the director of the department of general services shall appoint a state vehicle dispatcher and such other employees as may be necessary to carry out the provisions of this chapter. The state vehicle dispatcher shall serve at the pleasure of the director and shall not be governed by the provisions of chapter 19A. Subject to the approval of the director, the state vehicle dispatcher shall have the following duties:

1. He shall assign to a state officer or employee or to a state office, department, bureau, or commission, one or more motor vehicles which may be required by the officer or department, after the officer or department has shown the necessity for such transportation. The state vehicle dispatcher shall have the power to assign a motor vehicle either for part time or full time. He shall have the right to revoke the assignment at any time.

2. The state vehicle dispatcher may cause all state-owned motor vehicles to be inspected periodically. Whenever the inspection reveals that repairs have been improperly made on the motor vehicle or that the operator is not giving it the proper care, he shall report this fact to the head of the department to which the motor vehicle has been assigned, together with recommendation for improvement.

3. The state vehicle dispatcher shall install a record system for the keeping of records of the total number of miles state-owned motor vehicles are driven and the per-mile cost of operation of each motor vehicle. Every state officer or employee shall keep a record book to be furnished by the state vehicle dispatcher in which the officer or employee shall enter all purchases of gasoline, lubricating oil, grease, and other incidental expense in the operation of the motor vehicle assigned to him, giving the quantity and price of each purchase, including the cost and nature of all repairs on the motor vehicle. Each operator of a state-owned motor vehicle shall promptly prepare a report at the end of each month on forms furnished by the state vehicle dispatcher and forward the same to him at the statehouse, giving the information the state vehicle dispatcher may request in the report. The state vehicle dispatcher shall each month compile the costs and mileage of state-owned motor vehicles from the reports and keep a cost history card on each motor vehicle and the costs shall be reduced to a cost-per-mile basis for each motor vehicle. It shall be the duty of the state vehicle dispatcher to call to the attention of the head of any department to which a motor vehicle has been assigned any evidence of the mishandling or misuse of any state-owned motor vehicle which is called to his attention.

4. The state vehicle dispatcher shall purchase all new motor vehicles for all branches of the state government, except the state department of transportation, institutions under the control of the state board of regents, the commission for the blind, and any other agencies exempted by law. Before purchasing any motor vehicle he shall make requests for public bids by advertisement and he shall purchase the vehicles from the lowest responsible bidder for the type and make of motor vehicle designated at a purchase price approved by the executive council.

5. All used motor vehicles turned in to the state vehicle dispatcher shall be disposed of by public auction, and the sales shall be advertised in a newspaper of general circulation one week in advance of sale, and the receipts from the sale shall be deposited in the depreciation fund to the credit of that department or agency turning in the vehicle; except that, in the case of a used motor vehicle of special design, the state vehicle dispatcher may, with the approval of the executive council, instead of selling it at public auction, authorize the motor vehicle to be traded for another vehicle of similar design.

6. The state vehicle dispatcher may authorize the establishment of motor pools consisting of a number of state-owned motor vehicles under his supervision and which he may cause to be stored in a public or private garage. If a pool is established by the state vehicle dispatcher, any state officer or employee desiring the use of a state-owned motor vehicle on state business shall notify the state vehicle dispatcher of the need for a vehicle within a reasonable time prior to actual use of the motor vehicle. The state vehicle dispatcher may assign a motor vehicle from the motor pool to the state officer or employee. If two or more state officers or employees desire the use of a state-owned motor vehicle for a trip to the same destination for the same length of time, the state vehicle dispatcher may assign one vehicle to make the trip.

7. The state vehicle dispatcher shall cause to be marked on every state-owned motor vehicle a sign in a conspicuous place which indicates its ownership by the state

except cars requested to be exempt by the commissioner of public safety or the director of the department of general services. All state-owned motor vehicles shall display registration plates bearing the word "official" except cars requested to be furnished with ordinary plates by the commissioner of public safety or the director. The state vehicle dispatcher shall keep an accurate record of the registration plates used on all state cars.

8. The state vehicle dispatcher shall have the authority to make such other rules regarding the operation of state-owned motor vehicles, with the approval of the director of the department of general services, as may be necessary to carry out the purpose of this chapter. All rules adopted by the vehicle dispatcher shall be approved by the director before becoming effective.

9. All gasoline used in state-owned automobiles shall be purchased at cost from the various installations or garages of the state department of transportation, state board of regents, department of social services, or state car pools throughout the state, unless such purchases are exempted by the vehicle dispatcher. The vehicle dispatcher shall study and determine the reasonable accessibility of these state-owned sources for the purchase of gasoline. If these state-owned sources for the purchase of gasoline are not reasonably accessible, the vehicle dispatcher shall authorize the purchase of gasoline from other sources. The vehicle dispatcher may prescribe a manner, other than the use of the revolving fund, in which the purchase of gasoline from state-owned sources shall be charged to the department or agency responsible for the use of the automobile. The vehicle dispatcher shall prescribe the manner in which oil and other normal automobile maintenance for state-owned automobiles may be purchased from private sources, if they cannot be reasonably obtained from a state car pool. The state vehicle dispatcher may advertise for bids and award contracts for the furnishing of gasoline, oil, grease, and vehicle replacement parts for all state-owned vehicles.

(83 Acts, ch 200, § 12) HF 627
Subsection 5 amended

18.117 Private use — rate for state business. A state officer or employee shall not use a state-owned motor vehicle for personal private use, nor shall the officer or employee be compensated for driving a privately owned motor vehicle unless it is done on state business with the approval of the state vehicle dispatcher, and in that case the officer or employee shall receive twenty-two cents per mile effective July 1, 1981, and twenty-four cents per mile effective July 1, 1982. A statutory provision stipulating necessary mileage, travel, or actual expenses reimbursement to a state officer falls under the mileage reimbursement limitation provided in this section unless specifically provided otherwise. Any peace officer employed by the state as defined in section 801.4 who is required to use a private vehicle in the performance of official duties shall receive reimbursement for mileage expense at the rate specified in this section. However, the state vehicle dispatcher may delegate authority to officials of the state, and department heads, for the use of private vehicles on state business up to a yearly mileage figure established by the director of general services and approved by the executive council. If a state motor vehicle has been assigned to a state officer or employee, the officer or employee shall not collect mileage for the use of a privately owned vehicle unless the state vehicle assigned is not usable.

This section does not apply to officials and employees of the state whose mileage is paid by other than state agencies and this section does not apply to elected officers of the state, judicial officers, or court employees.

(83 Acts, ch 186, § 10010, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
Unnumbered paragraph 2 amended

18.120 Replacement fund. The vehicle dispatcher shall maintain a depreciation fund for the purchase of replacement motor vehicles and additions to the fleet. The dispatcher's records shall show the total funds deposited by and credited to each department or agency thereof. At the end of each month, the state vehicle dispatcher shall render a statement to each state department or agency thereof for additions to the fleet and total depreciation credited to that department or agency. Such depreciation expense shall be paid by the state departments or agencies in the same manner as other expenses of such department are paid, and shall be deposited in the depreciation fund to the credit of the department or agency thereof. The funds credited to each department or agency thereof shall remain the property of the department or agency. However, at the end of each biennium, the state vehicle dispatcher shall cause to revert to the fund from which it accumulated any unassigned depreciation.

(83 Acts, ch 200, § 13) HF 627

Exception for unencumbered balances through September 30, 1982; 83 Acts, ch 191, § 1

Amended

18.132 Purpose. It is the intent of the general assembly that communications of state government be co-ordinated to effect maximum practical consolidation and joint use of communications services.

(83 Acts, ch 126, § 3) SF 356

Amended

18.133 Definitions. When used in this chapter, unless the context otherwise requires:

1. "*State communications*" means a system to serve communications needs of state agencies but does not include communications activities exempt under section 18.135, subsection 3 and radio and television facilities under the Iowa department of public broadcasting.

2. "*Director*" means the director of the department of general services or his designee.

3. "*Council*" means the communications advisory council.

(83 Acts, ch 126, § 4, 5) SF 356

Subsection 1 amended

Subsections 4 and 5 struck

18.134 Administration — director of general services. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.135 Rules.

1. The director shall adopt rules relating to state communications in accordance with this chapter. The director shall also adopt and provide for standard communications procedures and policies to be used by state agencies.

2. Communications activities of state agencies that affect the overall operation of state communications fall within the administrative jurisdiction of the director for review and action upon request from a state agency.

3. Communications activities which are operational and the responsibility of a particular department of state government shall continue to fall within the administrative jurisdiction of the state agency and be financed through its appropriations.

(83 Acts, ch 126, § 6) SF 356

Amended

18.136 Advisory council. The state communications advisory council shall provide guidance to the director in the development, administration, unification and standardization of communication services to meet normal and emergency requirements of all state departments. The council shall consist of the following persons or their designated representatives:

1. The superintendent of public instruction.

2. The commissioner of public safety.
3. The adjutant general.
4. The chairman of the state transportation commission.
5. The president of the state board of regents.
6. The chairman of the council on human services.
7. The president of the board of public broadcasting.

(83 Acts, ch 96, § 160) SF 464

Subsection 6 amended

(83 Acts, ch 126, § 7) SF 356

Subsection 7 amended

18.138 Membership. Repealed by 83 Acts, ch 126, § 27; see § 18B.3. (SF 356)

Members of state educational radio and television facility board continue as members of Iowa public broadcasting board. Property, records, and funds transferred July 1, 1983. 83 Acts, ch 126, § 26.

18.139 Terms of office. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.140 Vacancies. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.141 Officers. The council shall elect from its membership a chairperson and vice chairperson who shall each serve for one year and who may be re-elected. Membership on the council does not constitute holding a public office and members are not required to take and file oaths of office before serving. A member shall not be disqualified from holding a public office or employment by reason of appointment or membership on the council nor shall a member forfeit the office or employment by reason of an appointment to the council.

(83 Acts, ch 126, § 8) SF 356

Amended

18.142 Compensation and expenses. The members of the council shall receive a forty-dollar per diem and be reimbursed for travel and actual and necessary expenses involved in attending meetings and in the performance of their duties. Per diem and expense moneys paid to the members shall be paid from funds appropriated to the department of general services.

(83 Acts, ch 126, § 9) SF 356

Amended

18.143 Meetings. The council shall meet at least four times each year and shall hold special meetings when called by the appropriate chairperson or in the absence of the chairperson by the vice chairperson or by the chairperson upon written request of four members. The council shall establish procedures and requirements with respect to quorum, place and conduct of meetings.

(83 Acts, ch 126, § 10) SF 356

Amended

18.144 Advisory committees. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.145 Federal funds. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.146 Purchase or lease of property. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.147 Channels, licenses and permits. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.148 Joint use of facilities. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.149 Director educational facilities. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.150 Local boards. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.151 Competition with private sector. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.152 Location of facilities. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.153 Annuity contracts. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.154 Capital equipment replacement revolving fund. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.155 Trusts. Repealed by 83 Acts, ch 126, § 27. (SF 356)

18.165 Guidelines.

1. The risk management division shall carry out its duties relating to state government loss and risk exposures pursuant to the following guidelines:

a. To the extent possible, all insurance coverage which is purchased for vehicles owned by the state shall be under fleet policies.

b. Bonding of state employees shall be re-evaluated, and uniform standards shall be adopted for the purchase of all fidelity bonds recommended for state employees. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds. In carrying out the requirements of section 64.6, the state may purchase an individual or a blanket surety bond insuring the fidelity of state officers subject to the minimum surety bond requirements of section 64.6. A state officer listed in section 64.6 is deemed to have furnished surety if the officer is covered by a blanket bond purchased as provided in this paragraph.

c. The management of state property loss exposures and state liability risk exposures shall be accomplished for state government as a whole, and without regard to the branch of government or the agency within which the loss exposure or risk exposure arises, except that the state board of regents shall share in the management of property loss exposures and liability risk exposures involving institutions under the jurisdiction of the board.

d. Insurance coverage may include any type of insurance protection sold by insurers, including but not limited to, full coverage, partial coverage, co-insurance, reinsurance, and deductible insurance.

2. The division may develop programs relating to governmental subdivisions which shall be subject to the following guidelines:

a. Participation by a governmental subdivision in any risk management program offered by the division shall be on a voluntary basis.

b. The division shall not be required to negotiate or purchase insurance coverage for any governmental subdivision, as permitted by sections 18.160 to 18.169, which fails to comply with standards adopted by the division.

c. Risk management programs may treat loss and risk exposures of governmental subdivisions individually, or on a group basis, or both.

(83 Acts, ch 14, § 1) SF 158

Subsection 1, paragraph b amended

CHAPTER 18B

IOWA DEPARTMENT OF PUBLIC BROADCASTING

NEW chapter

18B.1 Definitions. As used in this chapter unless the context otherwise requires:

1. "Board" means the Iowa public broadcasting board created in section 18B.3.
2. "Executive director" means the executive director of the Iowa department of public broadcasting.
3. "Radio and television facility" means transmitters, towers, studios, and all necessary associated equipment for broadcasting, including closed circuit television.

(83 Acts, ch 126, § 11) SF 356

NEW section

18B.2 Department created. The Iowa department of public broadcasting is created. The board shall appoint an executive director who shall be the chief administrative officer for the department. The board shall fix the executive director's compensation unless otherwise provided by law.

(83 Acts, ch 126, § 12) SF 356

NEW section

18B.3 Board.

1. The Iowa public broadcasting board is created to plan, establish, and operate an educational radio and television facility and other educational communications services as necessary to aid in accomplishing the educational objectives of the state. Educational programming shall be the highest priority of the board. Nine members shall compose the board selected in the following manner:

a. Three members shall be appointed by the state board of public instruction from its own membership or from the personnel of the state department of public instruction.

b. Three members shall be appointed by the state board of regents from its own membership or from among its employees or employees of institutions under the jurisdiction of the board.

c. Three members shall be appointed by the governor, at least one of whom shall be from a regionally accredited private four-year college or university.

2. Board members shall serve a three-year term commencing on July 1 of the year of appointment. A vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

Membership on the board does not constitute holding a public office and members shall not be required to take and file oaths of office before serving. A member shall not be disqualified from holding any public office or employment by reason of appointment to the board nor shall a member forfeit an office or employment by reason of appointment to the board.

(83 Acts, ch 126, § 13) SF 356

NEW section

18B.4 Meetings.

1. The board shall elect from among its members a president and a vice president to serve a one-year term. The board shall meet at least four times annually and shall hold special meetings at the call of the president or in the absence of the president by the vice president or by the president upon written request of four members. The board shall establish procedures and requirements relating to quorum, place, and conduct of meetings.

2. Board members shall receive forty dollars per diem and actual and necessary expenses incurred in performing their official duties.

(83 Acts, ch 126, § 14) SF 356

NEW section

18B.5 Advisory committees. The board shall appoint at least two advisory committees as follows:

1. Advisory committee on general operations and policy.
2. Advisory committee on curricula and educational matters.

Duties of the advisory committees, and of additional advisory committees as the board may from time to time appoint, shall be specified in rules of internal management adopted by the board.

(83 Acts, ch 126, § 15) SF 356

NEW section

18B.6 Facilities and permits.

1. The board may purchase, lease, and improve property, equipment, and services for proper educational communications uses, and may dispose of property and equipment when not necessary for its purposes. The board and the executive director may arrange for joint use of available services and facilities.

2. The board shall apply for channels, frequencies, licenses, and permits as are required for broadcasting.

(83 Acts, ch 126, § 16) SF 356

NEW section

18B.7 Existing facilities. This chapter does not prohibit institutions under the state board of regents and merged area schools under the department of public instruction from owning, operating, improving and maintaining educational radio and television stations and transmitters now in existence and operation. The institutions and schools may enter into agreements with the board for the lease or purchase of equipment and facilities.

(83 Acts, ch 126, § 17) SF 356

NEW section

18B.8 Competition with private sector. It is the intent of the general assembly that the board shall not compete with the private sector by actively seeking revenue from its operations. It is not the intent of the general assembly to prohibit the receipt of charitable contributions as defined by section 170 of the Internal Revenue Code. The board, the governor, or the executive director may apply for and accept federal or nonfederal gifts, loans, or grants of funds and may use the funds for projects under this chapter.

(83 Acts, ch 126, § 18) SF 356

NEW section

18B.9 Location of facilities. The board may locate its administrative offices and production facilities outside the city of Des Moines, Iowa.

(83 Acts, ch 126, § 19) SF 356

NEW section

18B.10 Annuity contracts. At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees from any company the employee chooses that is authorized to do business in this state and through an Iowa-licensed insurance agent that the employee selects, for retirement or other purposes and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403b of the Internal Revenue Code of 1954 as amended to July 1, 1983. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

Whenever an existing tax-sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall send a letter of intent by

registered mail at least thirty days prior to any action to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's own company. The letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.

(83 Acts, ch 126, § 20) SF 356

NEW section

18B.11 Capital equipment replacement revolving fund.

1. The board may provide noncommercial production or reproduction services for other public agencies, nonprofit corporations or associations organized under state law, or other nonprofit organizations and may collect the costs of providing the services from the public agency, nonprofit corporation, association, or organization plus a separate equipment usage fee in an amount determined by the board and based upon the equipment used. The costs shall be deposited to the credit of the board. The separate equipment usage fee shall be deposited in the capital equipment replacement revolving fund.

2. The board may establish a capital equipment replacement revolving fund into which shall be deposited equipment usage fees collected under subsection 1 and funds from other sources designated for deposit in the capital equipment replacement revolving fund. The board may expend moneys from the capital equipment replacement revolving fund to purchase technical equipment for operating the educational radio and television facility.

(83 Acts, ch 126, § 21) SF 356

NEW section

18B.12 Trusts. Notwithstanding section 633.63, the board may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the educational radio and television facility to accept and administer trusts deemed by the board to be beneficial to the operation of the educational radio and television facility. The board and the foundations may act as trustees in such instances.

(83 Acts, ch 126, § 22) SF 356

NEW section

CHAPTER 19A

STATE MERIT SYSTEM OF PERSONNEL ADMINISTRATION

Study to be made on compensation of merit system employees based on comparable worth; 83 Acts, ch 170, § 2

19A.3 Applicability — exceptions. The merit system shall apply to all employees of the state and to all positions in the state government now existing or hereafter established except the following:

1. The general assembly, employees of the general assembly, other officers elected by popular vote, and persons appointed to fill vacancies in elective offices.

2. All board members and commissions whose appointments are otherwise provided for by the statutes of the state of Iowa, and one stenographer or secretary for each full-time member of each board and commission, and one principal assistant or deputy in each department.

3. Three principal assistants or deputies for each elective official and one stenographer or secretary for each elective official and each principal assistant or deputy thereof, also all supervisory employees and their confidential assistants.

4. The personal staff of the governor.

5. All employees under the supervision of the attorney general or assistant attorneys general, and all employees under the supervision of the appellate defend-er* or assistant appellate defenders.

6. All presidents, deans, directors, teachers, professional and scientific personnel, and student employees under the jurisdiction of the state board of regents.
 7. The superintendent of public instruction and members of the professional staff of the department of public instruction, appointed under the provisions of section 257.24, who possess a current, valid teacher's certificate or who are assigned to vocational activities or programs.
 8. Patients or inmates employed in state institutions or persons on parole employed in work experience positions in state government for a period of time not to exceed one year.
 9. Persons employed by the commission for the blind and the division of vocational rehabilitation or any successor thereto.
 10. Part-time professional employees who are paid a fee or who are under contract for service basis and are not engaged in administrative duties.
 11. Officers and enlisted personnel of the armed services under state jurisdiction.
 12. All judicial officers and court employees.
 13. All physicians, psychiatrists, and heads of institutions under the jurisdiction of the Iowa department of human services and the Iowa department of corrections.
 14. All appointments other than boards or commissions which are by law made by the governor or executive council; one stenographer or secretary for each; one principal assistant or deputy for each; and all administrative assistants or deputies employed by the director of the Iowa development commission.
 15. Members of the Iowa highway safety patrol and other peace officers employed by the department of public safety.
 16. The executive director, the executive director's secretary, the division directors and their principal assistants, and programming, production, educational, and engineering personnel under the jurisdiction of the Iowa public broadcasting board.
 17. Summer employment appointments during the period May 15 through September 15.
 18. The commissioner of human services, assistant commissioners of human services, the administrative head of each of the divisions of the department of human services and the district administrators of the department of human services.
 19. The director of transportation, his deputy, and his divisional administrators, one secretary or stenographer for each, and one administrative assistant or deputy for each.
 20. The chief administrative officer of each board or commission who is appointed by the board or commission and one stenographer or secretary for the chief administrative officer.
 21. Employees of the public employment relations board.
 22. The deputy administrator in charge of securities within the department of insurance as designated pursuant to section 502.601.
- Nothing in this section shall authorize the employment of any stenographer, secretary, assistant or deputy not otherwise authorized by law.
- Nothing herein shall be construed as precluding the appointing authority from filling any position in the manner in which positions in the merit system are filled.
- The state board of regents shall adopt rules for their employees, which are not inconsistent with the objectives of this chapter, and which are subject to approval of the Iowa merit employment commission. If at any time the director determines that the board of regents merit system does not comply with the intent of this chapter, the director, subject to the approval of the commission, may direct the board to correct the rules. The rules of the board are not in compliance until the corrections are made.
- Institutions under the department of human services shall be authorized to qualify and employ applicants under rules adopted by the commission.

(83 Acts, ch 186, § 10011, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 12 amended

(83 Acts, ch 96, § 55, 157, 159) SF 464

Department of corrections effective October 1, 1983

Subsections 13, 18 and unnumbered paragraph 5 amended

(83 Acts, ch 126, § 23, 24) SF 356

See Code editor's note at the end of this Supplement

Subsection 16 struck and rewritten and unnumbered paragraph 4 amended

(83 Acts, ch 169, § 1) HF 514

NEW subsection 22

*Ch 13B repealed effective July 1, 1985; 81 Acts, ch 23, § 8

CHAPTER 20

PUBLIC EMPLOYMENT RELATIONS (COLLECTIVE BARGAINING)

20.4 Exclusions. The following public employees shall be excluded from the provisions of this chapter:

1. Elected officials and persons appointed to fill vacancies in elective offices, and members of any board or commission.

2. Representatives of a public employer, including the administrative officer, director or chief executive officer of a public employer or major division thereof as well as his deputy, first assistant, and any supervisory employees.

Supervisory employee means any individual having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. All school superintendents, assistant superintendents, principals and assistant principals shall be deemed to be supervisory employees.

3. Confidential employees.

4. Students working as part-time public employees twenty hours per week or less, except graduate or other postgraduate students in preparation for a profession who are engaged in academically related employment as a teaching, research, or service assistant.

5. Temporary public employees employed for a period of four months or less.

6. Commissioned and enlisted personnel of the Iowa national guard.

7. Judicial officers, and confidential, professional, or supervisory employees of the judicial department.

8. Patients and inmates employed, sentenced or committed to any state or local institution.

9. Persons employed by the state department of justice.

10. Persons employed by the commission for the blind.

(83 Acts, ch 186, § 10012, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 7 amended

CHAPTER 23

PUBLIC CONTRACTS AND BONDS

23.1 Terms defined. *"Public improvement"* as used in this chapter means a building or other construction work to be paid for in whole or in part by the use of funds of any municipality.

"Municipality" as used in this chapter means township, school corporation, state fair board, state board of regents, and state department of human services.

"Appeal board" as used in this chapter means the "state appeal board", composed of the auditor of state, treasurer of state, and state comptroller.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 2 amended

CHAPTER 24

LOCAL BUDGET LAW

24.2 Definition of terms. As used in this chapter and unless otherwise required by the context:

1. "*Municipality*" means a public body or corporation that has power to levy or certify a tax or sum of money to be collected by taxation, except a county, city, drainage district, township, or road district.

2. The words "levying board" shall mean board of supervisors of the county and any other public body or corporation that has the power to levy a tax.

3. The words "certifying board" shall mean any public body which has the power or duty to certify any tax to be levied or sum of money to be collected by taxation.

4. The words "fiscal year" shall mean the period of twelve months beginning on July 1 and ending on the thirtieth day of June.

The fiscal year of cities, counties, and other political subdivisions* of the state shall begin July 1 and end the following June 30.

5. The word "tax" shall mean any general or special tax levied against persons, property, or business, for public purposes as provided by law, but shall not include any special assessment nor any tax certified or levied by township trustees.

6. The words "state board" shall mean the state appeal board as created by section 24.26.

(83 Acts, ch 123, § 30, 209) HF 628

*Includes school districts, see § 8.51

Subsection 1 amended

24.6 Emergency fund — levy. A municipality may include in the estimate required, an estimate for an emergency fund. A municipality may assess and levy a tax for the emergency fund at a rate not to exceed twenty-seven cents per thousand dollars of assessed value of taxable property of the municipality, provided that an emergency tax levy shall not be made until the municipality has first petitioned the state board and received its approval. Transfers of moneys may be made from the emergency fund to any other fund of the municipality for the purpose of meeting deficiencies in a fund arising from any cause, provided that a transfer shall not be made except upon the written approval of the state board, and then only when that approval is requested by a two-thirds vote of the governing body of the municipality.

(83 Acts, ch 123, § 31, 209) HF 628

Amended

24.9 Filing estimates — notice of hearing — amendments. Each municipality shall file with the secretary or clerk thereof the estimates required to be made in sections 24.3 to 24.8, at least twenty days before the date fixed by law for certifying the same to the levying board and shall forthwith fix a date for a hearing thereon, and shall publish such estimates and any annual levies previously authorized as provided in section 76.2, with a notice of the time when and the place where such hearing shall be held at least ten days before the hearing. Provided that in municipalities of less than two hundred population such estimates and the notice of hearing thereon shall be posted in three public places in the district in lieu of publication.

For any other municipality such publication shall be in a newspaper published therein, if any, if not, then in a newspaper of general circulation therein.

Budget estimates adopted and certified in accordance with this chapter may be amended and increased as the need arises to permit appropriation and expenditure during the fiscal year covered by the budget of unexpended cash balances on hand at the close of the preceding fiscal year and which cash balances had not been estimated and appropriated for expenditure during the fiscal year of the budget sought to be amended, and also to permit appropriation and expenditure during the fiscal year covered by the budget of amounts of cash anticipated to be available

during the year from sources other than taxation and which had not been estimated and appropriated for expenditure during the fiscal year of the budget sought to be amended. Such amendments to budget estimates may be considered and adopted at any time during the fiscal year covered by the budget sought to be amended, by filing the amendments and upon publishing them and giving notice of the public hearing in the manner required in this section. Within ten days of the decision or order of the certifying or levying board, the proposed amendment of the budget is subject to protest, hearing on the protest, appeal to the state appeal board and review by that body, all in accordance with sections 24.27 to 24.32, so far as applicable. A local budget shall be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and a decision rendered before June 30. An amendment of a budget after May 31 which is properly appealed but without adequate time for hearing and decision before June 30 is void. Amendments to budget estimates accepted or issued under this section are not within section 24.14.

(83 Acts, ch 123, § 32, 209) HF 628

Unnumbered paragraph 2 struck

24.14 Tax limited. A greater tax than that so entered upon the record shall not be levied or collected for the municipality proposing the tax for the purposes indicated; and thereafter a greater expenditure of public money shall not be made for any specific purpose than the amount estimated and appropriated for that purpose, except as provided in sections 24.6 and 24.15. All budgets set up in accordance with the statutes shall take such funds, and allocations made by sections 123.53, 324.79 and 405.1, into account, and all such funds, regardless of their source, shall be considered in preparing the budget, all as is provided in this chapter.

(83 Acts, ch 123, § 33, 209) HF 628

Amended

24.22 Transfer of funds. Upon the approval of the state board, it is lawful to make temporary or permanent transfers of money from one fund to another fund of the municipality. The certifying board or levying board shall provide that money temporarily transferred shall be returned to the fund from which it was transferred within the time and upon the conditions the state board determines. However, it is not necessary to return to the emergency fund, or to any other fund no longer required, any money transferred to any other fund.

(83 Acts, ch 123, § 34, 209) HF 628

Amended

24.25 Estimates submitted by departments. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

24.48 Appeal to state board for suspension of limitations. If the property tax valuations effective January 1, 1979 and January 1 of any subsequent year, are reduced or there is an unusually low growth rate in the property tax base of a political subdivision, the political subdivision may appeal to the state appeal board to request suspension of the statutory property tax levy limitations to continue to fund the present services provided. A political subdivision may also appeal to the state appeal board where the property tax base of the political subdivision has been reduced or there is an unusually low growth rate for any of the following reasons:

1. Any unusual increase in population as determined by the preceding certified federal census.

2. Natural disasters or other emergencies.

3. Unusual problems relating to major new functions required by state law.

4. Unusual staffing problems.

5. Unusual need for additional funds to permit continuance of a program which provides substantial benefit to its residents.

6. Unusual need for a new program which will provide substantial benefit to

residents, if the political subdivision establishes the need and the amount of the necessary increased cost.

The state appeal board may approve or modify the request of the political subdivision for suspension of the statutory property tax levy limitations.

Upon decision of the state appeal board, the state comptroller shall make the necessary changes in the total budget of the political subdivision and certify the total budget to the governing body of the political subdivision and the appropriate county auditors.

The city finance committee shall have officially notified any city of its approval, modification or rejection of the city's request for a suspension of the statutory property tax levy limitation prior to thirty-five days before March 15.

The state appeals board shall have officially notified any county of its approval, modification or rejection of the county's request for a suspension of the statutory property tax levy limitation prior to thirty-five days before March 15.

For purposes of this section only, "political subdivision" means a city, school district, or any other special purpose district which certifies its budget to the county auditor and derives funds from a property tax levied against taxable property situated within the political subdivision.

For the purpose of this section, the city finance committee shall be the state appeal board when the political subdivision is a city.

(83 Acts, ch 123, § 35, 209) HF 628

Unnumbered paragraph 6 amended

CHAPTER 25A

STATE TORT CLAIMS ACT

25A.2 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*State agency*" includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue and be sued in their own names. This definition shall not be construed to include any contractor with the state of Iowa. Soil conservation districts as defined in section 467A.3, subsection 1, and regional boards of library trustees as defined in chapter 303B, are state agencies for purposes of this chapter.

2. "*State appeal board*" means the state appeal board as defined in section 23.1.

3. "*Employee of the state*" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists and dentists, who render services to patients and inmates of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement.

4. "*Acting within the scope of his office or employment*" means acting in his line of duty as an employee of the state.

5. "*Claim*" means:

a. Any claim against the state of Iowa for money only, on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the state while acting within the scope

of his office or employment, under circumstances where the state, if a private person, would be liable to the claimant for such damage, loss, injury, or death.

b. Any claim against an employee of the state for money only, on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission, except an act of malfeasance in office or willful and wanton conduct, of any employee of the state while acting within the scope of his office or employment.

6. "Award" means any amount determined by the state appeal board to be payable to a claimant under section 25A.3, and the amount of any compromise or settlement under section 25A.9.

(83 Acts, ch 96, § 56, 159) SF 464

Effective October 1, 1983

Subsection 3 amended

25A.6 Applicable rules. In suits under this chapter, the forms of process, writs, pleadings, and actions, and the practice and procedure, shall be in accordance with the rules of civil procedure. The same provisions for counterclaims, setoff, interest upon judgments, and payment of judgments, are applicable as in other suits brought in the district court. However, no writ of execution shall issue against the state or any state agency by reason of a judgment under this chapter.

(83 Acts, ch 186, § 10013, 10201) SF 495

Amended

25A.14 Exceptions. The provisions of this chapter shall not apply with respect to any claim against the state, to:

1. Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion be abused.

2. Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer.

3. Any claim for damages caused by the imposition or establishment of a quarantine by the state, whether such quarantine relates to persons or property.

4. Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse or process, libel, slander, misrepresentation, deceit, or interference with contract rights.

5. Any claim by an employee of the state which is covered by the Iowa workers' compensation law or the Iowa occupational disease law.

6. Any claim by an inmate as defined in section 85.59.

7. A claim based upon damage to or loss or destruction of private property, both real and personal, or personal injury or death, when the damage, loss, destruction, injury or death occurred as an incident to the training, operation, or maintenance of the national guard while not in "active state service" as defined in section 29A.1, subsection 5.

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.

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.

(83 Acts, ch 198, § 11, 12, 27, 29) SF 531

NEW subsection 8 applicable to all cases tried or retried after July 1, 1983

Legislative intent that new subsection 8 not apply to areas of litigation other than highway or road construction or reconstruction; applicability of rule of exclusion; see 83 Acts, ch 198, § 27

NEW subsections 8 and 9

CHAPTER 25B

STATE MANDATES ACT

NEW chapter

25B.1 Title. This chapter may be cited as the "State Mandates Act".

(83 Acts, ch 142, § 1) SF 527

NEW section

25B.2 Findings and purpose.

1. The general assembly finds that preceding actions of state government in specifying the manner, standards, and conditions under which public services are rendered to citizens by the political subdivisions of this state in some cases have not resulted in equitable relationships between the state government and its political subdivisions. Some state actions have dealt in detail with the internal management of the political subdivisions; some have specified the establishment of new services and facilities without providing new revenue sources or financial participation by the state to meet the additional costs; and other actions have specified the adoption of higher service standards without a complete assessment of the impact on the expenditures and tax rates of the political subdivisions.

2. It is the purpose of this chapter to enunciate policies, criteria, and procedures to govern future state-initiated specification of local government services, standards, employment conditions, and retirement benefits that necessitates increased expenditures by political subdivisions or agencies and entities which contract with a political subdivision to provide services.

(83 Acts, ch 142, § 2) SF 527

NEW section

25B.3 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Political subdivision*" means a city, county, township, or school district.

2. "*State mandate*" means a statutory requirement enacted after January 1, 1984, which requires a political subdivision of the state to establish, expand, or modify its activities in a manner which necessitates additional expenditures of local revenue, excluding an order issued by a court of this state.

(83 Acts, ch 142, § 3) SF 527

NEW section

25B.4 State mandate information. The state comptroller shall report at least biennially to the governor and the general assembly regarding the administration of this chapter including any proposed changes.

(83 Acts, ch 142, § 4) SF 527

NEW section

25B.5 Estimation — procedures.

1. When a bill or joint resolution is requested, the legislative service bureau shall make an initial determination of whether the bill or joint resolution will impose a state mandate. If a state mandate is included, the fact shall be included in the explanation of the bill or joint resolution.

2. If a bill or joint resolution contains a state mandate, a copy of the prepared draft shall be sent to the legislative fiscal bureau which shall prepare an estimate of the amount of costs imposed.

(83 Acts, ch 142, § 5) SF 527

NEW section

25B.6 State rules. A state administrative rule filed pursuant to chapter 17A which necessitates additional expenditures by political subdivisions or agencies and entities which contract with a political subdivision to provide services beyond that which are explicitly provided by state law shall be accompanied by a fiscal note outlining the costs.

(83 Acts, ch 142, § 6) SF 527

NEW section

CHAPTER 28

IOWA DEVELOPMENT COMMISSION

28.41 Purposes. It is the purpose of the general assembly in enacting this division to accomplish the following goals:

1. To provide that the small business division shall be the focal point within the Iowa development commission of activities which address the needs of small businesses in this state.

2. To encourage the creation of nongovernmental, nonsubsidized and permanent jobs in this state, and to increase real income levels in this state by promoting the stability of existing small businesses and the creation of new small businesses.

3. To provide a forum for the coordination of efforts to address the needs and opportunities of small business in this state.

(83 Acts, ch 207 § 12, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.41 through 28.46

NEW section

28.42 Definitions. As used in this division, unless the context otherwise requires:

1. "*Small business division*" means the small business development division established within the Iowa development commission.

2. "*Administrator*" means the administrator of the small business division.

3. "*Small business*" means a nonprofessional enterprise which is located in this state, and which is operated for profit and under a single management, and which has either fewer than twenty employees or an annual gross income of less than three million dollars.

4. "*Advisory council*" means the small business advisory council.

(83 Acts, ch 207, § 13, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.41 through 28.46

NEW section

28.43 Small business division.

1. The commission shall establish and maintain a small business division.

2. The director shall appoint an administrator who shall serve at the pleasure of the director. The administrator shall supervise the small business division, shall be responsible for the operation of the regulatory information service established

pursuant to section 28.17, and shall attend meetings of the commission and the advisory council.

3. The commission shall assign to the small business division personnel employed under section 28.4 as may be required to enable the administrator and the small business division to perform the functions of the small business division.

4. The commission may adopt rules pursuant to chapter 17A for the administration of this division.

5. The commission shall provide that at least twice each year a meeting of the commission authorized by section 28.6 shall be devoted to consultation with the advisory council.

(83 Acts, ch 207, § 14, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.41 through 28.46

NEW section

28.44 Small business advisory council.

1. The governor shall appoint a small business advisory council to consist of eleven members. No more than a simple majority of the members of the advisory council shall be affiliated with the same political party as provided in section 69.16. The advisory council shall elect one of its members to serve as its chairperson. Members of the advisory council shall serve four-year terms at the pleasure of the governor subject to confirmation of the senate. The terms shall begin and end as provided in section 69.19. The governor shall fill a vacancy in the same manner as the original appointment for the unexpired portion of the member's term. For the initial appointments to the advisory council, the governor shall appoint five members whose terms shall commence upon appointment and shall expire April 30, 1985 and shall appoint six members whose terms shall commence upon appointment and shall expire April 30, 1987.

2. More than half of the membership of the advisory council shall be persons who own and operate a small business or persons employed in the management of a small business.

3. The advisory council shall meet at least quarterly each year at the seat of government in facilities provided by the commission. In addition, the advisory council shall meet with the commission as provided in section 28.43, subsection 5. The commission shall provide a secretary for meetings of the advisory council.

4. The members of the advisory council shall be paid a forty dollar per diem and shall be reimbursed for actual and necessary expenses incurred in performance of duties. All per diem and expense moneys shall be paid from funds appropriated for the use of the small business division.

5. The advisory council shall advise and consult with the commission and the small business division with respect to matters which are of concern to small businesses. The advisory council may submit recommendations to the commission relating to actual or proposed activities of the small business division, and may submit recommendations for legislative or administrative actions.

(83 Acts, ch 207, § 15, 93) SF 548

Effective June 25, 1983

NEW section

28.45 General duties of division. The small business division shall adopt appropriate service programs to:

1. Receive and review complaints from individual small businesses that relate to rules or decisions of state agencies, and refer questions and complaints to a governmental agency when appropriate.

2. Administer funding for the small business development centers, contracting with the center for industrial research and service for the administration of the program.

3. Channel requests for technical and managerial assistance from small business-

es to the small business development centers and the extension system, and other available resources.

4. Provide information to small businesses seeking to establish or expand in Iowa through the regulatory information service created in section 28.17.

5. Study the feasibility of reducing the total number of state licenses, permits, and certificates required to conduct small businesses.

6. Disseminate public information with respect to the legislation, regulation, policies and practices of government which affect the creation and operation of small businesses in this state.

7. Research, propose and promote methods of utilizing small businesses to develop economically depressed areas or to provide jobs for unemployed persons.

8. Encourage and assist small businesses to obtain state contracts and subcontracts by cooperating with the directors of purchasing in the department of general services, the state board of regents, and the department of transportation in performing the following functions:

a. Compiling and maintaining a comprehensive source list of small businesses.

b. Assuring that responsible small businesses are solicited on each suitable purchase.

c. Assisting small businesses in complying with the procedures for bidding and negotiating for contracts.

d. Simplifying procurement specifications and terms in order to increase the opportunities for small business participation.

e. When economically feasible, dividing total purchases into tasks or quantities to permit maximum small business participation.

f. Preparing timely forecasts of repetitive contracting requirements by dollar volume and types of contracts to enhance the participation of responsible small businesses in the public purchasing process.

g. Developing a mechanism to measure and monitor the amount of participation by small businesses in state procurement.

(83 Acts, ch 207, § 16, 93) SF 548

Effective June 25, 1983

NEW section

28.46 Annual report. The small business division shall prepare and submit to the general assembly in January of each year a report of the activities of the small business division during the previous fiscal year. The report shall contain a statement of the expenditures of the small business division for the previous fiscal year and the recommendations of the advisory council, if any, for future action.

(83 Acts, ch 207, § 17, 93) SF 548

Effective June 25, 1983

NEW section

28.51 Establishment of Iowa high technology council. The Iowa high technology council, hereafter referred to as the "council" is created. The council shall be administratively integrated into the Iowa development commission for staff support and assistance.

The council shall be composed of thirteen members appointed by the governor, subject to confirmation by the senate. This membership shall include:

1. Two members from the working force of the state, at least one of whom shall be a member of a labor union.

2. Two members from the state's community college system.

3. Two members from the board of regents' institutions.

4. Two members from the agricultural community of the state, at least one of whom shall represent a family farm operation.

5. Two members from management of industrial firms located in the state, at least one of whom is from a firm engaged in high technology.

Each term shall begin and end as provided in section 69.19. No more than a simple

majority of the members of the board shall belong to the same political party as provided in section 69.16. Vacancies on the council shall be filled for the unexpired terms in the same manner as original appointments. The council members shall not receive per diem but shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the Iowa development commission. For the initial appointments to the council, the governor shall appoint six members whose terms shall commence upon appointment and shall expire April 30, 1985, and seven members whose terms shall commence upon appointment and shall expire April 30, 1987. Thereafter, all appointments shall be for a term of four years unless the appointment is to fill a vacancy.

The council shall meet at least once each quarter and shall hold special meetings on call of the chairperson. Seven members shall constitute a quorum. The council shall adopt rules pursuant to chapter 17A to govern its procedures. The governor shall designate one member as chairperson.

(83 Acts, ch 207, § 35, 93) SF 548

Effective June 25, 1983

NEW section

28.52 Powers and duties. The purpose of the council shall be to encourage the development of high technology industries and research in Iowa which will establish net new employment opportunities for Iowa workers or assist in improving the efficiency, productivity, and viability of family farm operations and which will improve the quality of life in an environmentally-sound manner. For high technologies consistent with this purpose, the council shall:

1. Promote, encourage, and support education and research development programs in the fields of high technology.

2. Seek to improve the quality and quantity of the research capabilities of the institutions of higher education, provide incentives to attract and retain superior faculty members at the institutions of higher education, and enhance the economic health of the state through encouraging investment by both governmental and private sources in educational programs which promote high technology and research and development.

3. Establish priorities to encourage development in agriculture and industrial technology most closely related to the state's current economy and review the priorities to facilitate possible future changes in the economy.

4. Consider and award grants on a project basis to an educational institution or commercial entity in which an educational institution has an ownership interest, for any of the following:

a. Further research on an idea, process, or product to determine potential for commercially feasible application.

b. Product development and testing.

c. Market analysis.

d. Public investment in commercial development in conjunction with private investment.

The council shall report annually to the governor and the general assembly on the grants awarded, including an analysis of how the grants serve to meet the general purpose of this section. The council shall provide post-grant audits of all grants awarded.

5. Promote the planning, coordination, and evaluation of Iowa's efforts to develop high technology capabilities and employment.

6. Provide leadership in the establishment of research and development centers for high technology.

7. Encourage the private development of properties for the development of high technology companies.

8. Coordinate and stimulate promotional efforts to attract and expand high technology enterprises with the Iowa development commission.

9. Ensure the proper development of an effective mechanism to transfer information on technology and research to Iowa's existing industry.

10. Promote legislation that will stimulate the development and growth of high technology in Iowa.

11. Aid in identifying the research needs of industry, universities, and government.

12. Encourage the funding of technology and research from business and government sources.

13. Work to increase the public awareness of technology and the attractiveness of Iowa as a location for industry.

14. Work to form a broad-based, long-term commitment to build up Iowa's research base through promotion, human resource development, and capital investment.

15. Receive and disburse funds available from public or private sources to be used to further the overall development of high technology in Iowa.

(83 Acts, ch 207, § 36, 93) SF 548

Effective June 25, 1983

NEW section

28.53 Grants, gifts, and bequests. The council may receive and expend grants, gifts, and bequests, including but not limited to appropriations, federal funding, and other funding available for the purposes pursuant to section 28.52.

(83 Acts, ch 207, § 37, 93) SF 548

Effective June 25, 1983

NEW section

28.54 Contributions from private industry.

1. The council may accept contributions of advanced technology equipment, grants, gifts, and bequests from advanced technology companies. A company may designate the institution of higher education the contribution is awarded to or may provide a nondesignated contribution.

2. Equipment, grants, gifts, or bequests which are not designated pursuant to subsection 1 shall be utilized for agricultural research or advanced technology industry-generated research conducted in equipped laboratories at the institutions of higher education and for maintaining state of the art laboratory equipment at the institutions.

(83 Acts, ch 207, § 38, 93) SF 548

Effective June 25, 1983

NEW section

28.55 Operations of council. A public investment in commercial development by the council may be made only in Iowa and in conjunction with private investment and shall be reflected in a public ownership interest in the commercial entity which is established. The public ownership interest shall be negotiated with the other investing parties, including but not limited to, educational institutions, inventors, and private investors. A provision relating to the terms of ownership and the circumstances of disposal of the public ownership interest shall be made at the time of investment.

Upon the disposition of a public investment, one half of the proceeds beyond the original investment shall be available for research support at the educational institutions making application for support under this division. The remainder of the proceeds attributable to an educational institution ownership interest shall be available for support and investment pursuant to this division.

All support and investment authorized by this division shall be made consistent with the rules and policies concerning property rights, patents, copyrights, and intellectual property of the educational institutions involved in each project.

(83 Acts, ch 207, § 39, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.51 through 28.55

NEW section

28.61 Intent. The purposes of this division are to encourage capital investment in the state of Iowa, to encourage the establishment or expansion of business and industry, to provide additional jobs within the state, and to encourage research and development activities within this state.

(83 Acts, ch 207, § 83, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.61 through 28.66

NEW section

28.62 Title. This division shall be known and may be cited as the "Iowa Venture Capital Fund Act."

(83 Acts, ch 207, § 84, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.61 through 28.66

NEW section

28.63 Authorized corporation. There may be incorporated under chapter 496A a corporation which shall be known as the Iowa venture capital fund. The corporation shall be established by the Iowa development commission, and the initial board of directors shall be appointed by the governor. The initial board of directors shall consist of five members, not more than three of whom shall be from the same political party. The purpose of the corporation shall be to organize and manage an investment fund which shall be capitalized through the sale of common stock to the public. The Iowa development commission may expend an amount not to exceed one hundred thousand dollars of the funds necessary to establish the corporation which funds shall be repaid to the Iowa development commission upon completion of its public offering of stock. The corporation shall be subject to and have the powers and privileges conferred by this division, and those provisions of chapter 496A which are not inconsistent with and to the extent not restricted or limited by this division. In providing for the sale of its common stock to the public, the corporation shall offer to every licensed brokerage firm located in the state the opportunity to market the sale of the common stock and shall provide for the taking of bids for purposes of determining which brokerage firm or firms will market the sale of the common stock.

(83 Acts, ch 207, § 85, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.61 through 28.66

NEW section

28.64 Investment policy. It is the policy of the Iowa venture capital fund to invest primarily in companies with a principal place of business in the state, which meet the appropriate small business administration definition of small business and which are principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available in this state, or which provides support to such companies, or other investments which provide an economic benefit to the state. Fund investments shall be in accordance with the general objective of encouraging the development of additional business operations and employment in this state through venture capital financing to selected business ventures. The principal financial objective of the fund is to generate long-term capital appreciation by participating in the growth in equity value of Iowa-based companies in which the fund invests.

(83 Acts, ch 207, § 86, 93) SF 548

Effective June 25, 1983

NEW section

28.65 Reports to development commission. The Iowa venture capital fund is subject to the examination of the Iowa development commission and shall make reports of its condition not less than annually and shall also furnish other information as may from time to time be required by the Iowa development commission.

(83 Acts, ch 207, § 87, 93) SF 548

Effective June 25, 1983

NEW section

28.66 Stock sales limit. The aggregate value of all stock sold in the Iowa venture capital fund for which a credit is allowed under section 422.10 or 422.33 shall not exceed five million dollars.

(83 Acts, ch 207, § 88, 93) SF 548

Effective June 25, 1983

NEW section

28.81 Title. This division may be cited as the "Iowa Product Development Corporation Act".

(83 Acts, ch 207, § 19, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

28.82 Definitions. As used in this division unless the context otherwise requires:

1. "*Corporation*" means the Iowa product development corporation.
2. "*Financial aid*" means the infusion of risk capital to persons for use in the development and exploitation of specific inventions and products.
3. "*Invention*" means a new process or new technique without regard to whether a patent has or could be granted.
4. "*Product*" means a product, device, technique, or process which is exploitable commercially. The term does not mean a product in a pure research stage of development but applies to a product, device, technique, or process which has advanced beyond the theoretic stage and is readily capable of being reduced to practice.
5. "*Venture*" means a contractual arrangement between a person and the corporation from which the corporation obtains rights, from or in an invention, product, or the proceeds from the product or invention in exchange for granting financial aid to the person.
6. "*Board*" means the board of directors of the Iowa product development corporation.
7. "*President*" means the president of the Iowa product development corporation.

(83 Acts, ch 207, § 20, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

28.83 Product development corporation.

1. There is created a corporate body called the "Iowa product development corporation". The corporation is a quasi- public instrumentality and the exercise of the powers granted to the corporation in this division is an essential governmental function.

2. The corporation shall be governed by a board of seven directors who shall serve a term of four years. Each term shall begin and end as provided in section 69.19. No more than a simple majority of the members of the board shall belong to the same political party as provided in section 69.16. Each director shall serve at the pleasure of the governor and shall be appointed by the governor, subject to confirmation by the senate. A director is eligible for reappointment. A vacancy on the board of directors shall be filled in the same manner as an original appointment. For the initial appointments to the board of directors, the governor shall appoint three members whose terms shall commence upon appointment and shall expire April 30, 1985, and four members whose terms shall commence upon appointment and shall expire April 30, 1987.

3. The board of directors shall annually elect one member as chairperson and one member as secretary. The board may elect other officers of the corporation as necessary. Members shall not receive compensation but shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the Iowa development commission.

4. Each director of the corporation shall take an oath of office and the record of each oath shall be filed in the office of the secretary of state.

5. The corporation shall receive information and cooperate with other agencies of the state and the political subdivisions of the state.

6. The corporation shall be a part of the Iowa development commission for administrative purposes only.

(83 Acts, ch 207, § 21, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

28.84 Perpetual succession. The corporation has perpetual succession. The succession shall continue until the existence of the corporation is terminated by law. The termination of the corporation shall not affect an outstanding contractual obligation of the corporation to assist a person. In the event of the termination of the corporation, the contractual obligation to assist the person succeeds to the state and the rights and properties of the corporation shall pass to the state. However, debts or other financial obligations of the corporation do not succeed to the state upon termination of the corporation.

(83 Acts, ch 207, § 22, 93) SF 548

Effective June 25, 1983

NEW section

28.85 Board of directors. The powers of the corporation are vested in and shall be exercised by the board of directors. Four members of the board constitute a quorum and an affirmative vote of the majority of the members present at a meeting is necessary before an action may be taken by the board. An action taken by the board shall be authorized by resolution at a regular or special meeting and takes effect immediately unless the resolution specifies otherwise. Notice of a meeting shall be given orally or in writing not less than forty-eight hours prior to the meeting.

(83 Acts, ch 207, § 23, 93) SF 548

Effective June 25, 1983

NEW section

28.86 President. The board of directors shall appoint a president of the corporation who shall serve at the pleasure of the board and shall receive the compensation determined by the board. The president shall not be a member of the board. The president shall be the chief administrative and operational officer of the corporation and shall direct and supervise the administrative affairs and the general management of the corporation. The president may employ other employees as designated by the board. The president shall provide copies of all minutes, documents, and other records of the corporation and shall provide a certificate which attests to truthfulness of the copies, if requested. Persons dealing with the corporation may rely upon the certificates. The president shall keep a record of all proceedings, documents, and papers filed with the corporation.

(83 Acts, ch 207, § 24, 93) SF 548

Effective June 25, 1983

NEW section

28.87 Corporate purpose — powers. The purpose of the corporation is to stimulate and encourage the development of new products within Iowa by the infusion of financial aid for invention and innovation in situations in which financial aid would not otherwise be reasonably available from commercial sources. For this purpose the corporation has the following powers:

1. To have perpetual succession as a corporate body and to adopt bylaws, policies, and procedures for the regulation of its affairs and conduct of its business.

2. To enter into venture agreements with persons doing business in Iowa upon

conditions and terms which are consistent with the purposes of this division for the advancement of financial aid to the persons. The financial aid advanced shall be for the development of specific products, procedures, and techniques which are to be developed and produced in this state. The corporation shall condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in Iowa.

3. To receive and accept aid or contributions from a source of money, property, labor, or other things of value to be used to carry out the purposes of this division including gifts or grants from a department or agency of the United States or any state.

4. With approval of the director of the department of general services to acquire, lease, purchase, manage, hold, and dispose of real and personal property and to lease, convey, or enter into contracts with respect to such property provided that all acquisitions of real property shall be as required by law.

5. To issue notes and bonds as provided under this division.

6. To hold patents, copyrights, trademarks, or other evidences of protection or exclusivity issued under the laws of this state or the United States to any products.

7. To employ assistants, agents, and other employees who shall be state employees and to engage consultants, attorneys, and appraisers as necessary or desirable to carry out the purposes of the corporation.

8. To make and enter into contracts and agreements necessary or incidental to its performance of the duties and the powers granted to the corporation.

9. To sue and be sued, plead, and adopt a seal.

10. With the approval of the treasurer of state, to invest funds which are not needed for immediate use or disbursement, including funds held in reserve, in obligations issued or guaranteed by the state or the United States.

11. To procure insurance against a loss in connection with its property and other assets.

12. To the extent permitted under a corporation contract with other persons, to consent to a termination, modification, forgiveness, or other change in the terms of a contractual right, payment, royalty, contract, or agreement.

13. To take necessary action to render bonds issued under this division more marketable.

(83 Acts, ch 207, § 25, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

28.88 Applications for financial aid.

1. Applications for financial aid shall be forwarded, together with an application fee prescribed by the corporation, to the president of the corporation. The president, after preparing the necessary records for the corporation, shall forward each application to the staff of the corporation, for an investigation and report concerning the advisability of approving the financial aid for the company and concerning any other factors found relevant by the corporation. The investigation and report shall include but are not limited to the following:

a. The history of the applicant, its wage standards, job opportunities, and stability of employment.

b. The extent of the applicant's dependence on agriculture.

c. The applicant's past, present, and future financial condition and structure.

d. The applicant's pro-forma income statements.

e. The present and future market prospects for the product.

f. The feasibility of the proposed project or invention to be given financial aid and the integrity of management.

g. The state of the project's development.

2. After receipt and consideration of the report and any other action the corpora-

tion finds necessary, the corporation shall approve or deny the application. The president shall promptly notify an applicant by certified mail of the disposition of its application. The corporation shall give priority to those applicants whose business is agriculture related or whose business is located in an area which the corporation determines has been severely adversely affected by depressed agricultural prices and whose proposed product or invention is to be used to convert all or a portion of the business to nonagriculture-related industrial or commercial activity or to create a new nonagriculture-related industrial or commercial business.

(83 Acts, ch 207, § 26, 93) SF 548

Effective June 25, 1983

NEW section

28.89 Iowa product development corporation fund. There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of authority granted to the corporation under this division shall be paid to the treasurer of state as an agent of the corporation and the treasurer shall deposit the amounts in the Iowa product development corporation fund. The money in the Iowa product development corporation fund shall be paid out by warrants signed by the treasurer of state on requisition of the president of the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division, the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required.

(83 Acts, ch 207, § 27, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

28.90 Product development corporation notes. The corporation may issue Iowa product development corporation fund notes, the principal and interest of which shall be payable solely from the Iowa product development corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at times not exceeding ten years from their dates of issue, and may be made redeemable before maturity, at the option of the corporation, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the housing assistance fund.* The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

(83 Acts, ch 207, § 28, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

*Iowa product development corporation fund probably intended

NEW section

28.91 Bonds and notes.

1. The corporation may issue its negotiable bonds and notes in principal amounts as, in the opinion of the corporation, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers. However, the corporation shall not have a total principal amount of bonds and notes outstanding at any time in excess of one million dollars, or the value of the aggregate assets of the corporation, as certified by an independent certified public accountant. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

2. Bonds and notes issued by the corporation are payable solely and only out of the moneys, assets, or revenues of the corporation, and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets or revenues. Bonds or notes are not an obligation of this state or any political subdivision of this state other than the corporation within the meaning of any constitutional or statutory debt limitations, but are special obligations of the corporation payable solely and only from the sources provided in this chapter, and the corporation shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the corporation, or make its debts payable out of any moneys except those of the corporation.

3. Bonds and notes must be authorized by a resolution of the corporation. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the corporation the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

4. Bonds shall:

a. State the date and series of the issue, be consecutively numbered, and state on their face that they are payable both as to principal and interest solely out of the assets of the corporation and do not constitute an indebtedness of this state or any political subdivision of this state other than the corporation within the meaning of any constitutional or statutory debt limit.

b. Be either registered, registered as to principal only, or in coupon form, issued in denominations as the corporation prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the corporation with the manual or facsimile signature of the chairperson or president, attested by the manual or facsimile signature of the secretary, have impressed or imprinted thereon the seal of the corporation or a facsimile of it, and the coupons attached shall be signed with the facsimile signature of the chairperson or president, be payable as to interest at rates and at times as the corporation determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places, and with reserved rights of prior redemption, as the corporation prescribes, be sold at prices, at public or private sale, and in a manner as the corporation prescribes, and the corporation may pay the expenses, premiums, and commissions which it deems necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this division, as are found to be necessary by the corporation for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the bonds as to:

(1) Pledging or creating a lien, to the extent provided by the resolution, on moneys or property of the corporation or moneys held in trust or otherwise by others to secure the payment of the bonds.

(2) Providing for the custody, collection, securing, investment, and payment of any moneys of or due to the corporation.

(3) Limitations on the purpose to which the proceeds of sale of an issue of bonds then or thereafter to be issued may be applied.

(4) Limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds.

(5) The procedure by which the terms of a contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent to an amendment or abrogation, and the manner in which consent may be given.

(6) Vesting in a trustee properties, rights, powers, and duties in trust as the corporation determines, which may include the rights, powers, and duties of the trustee appointed for the holders of any issue of bonds pursuant to this division, in which event the provisions of that section authorizing appointment of a trustee by the holders of bonds do not apply, or limiting or abrogating the right of the holders of bonds to appoint a trustee under that section, or limiting the rights, duties, and powers of the trustee.

(7) Defining the acts or omissions which constitute a default in the obligations and duties of the corporation and providing for the rights and remedies of the holders of bonds in the event of a default. However, rights and remedies shall be consistent with the laws of this state and this division.

(8) Any other matters which affect the security and protection of the bonds and the rights of the holders.

5. The corporation may issue its bonds for the purpose of refunding any bonds or notes of the corporation then outstanding, including the payment of any redemption premiums on the bonds or notes and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with this division. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the corporation for use by it in any lawful manner. Refunding bonds shall be issued and secured and subject to this division in the same manner and to the same extent as other bonds issued pursuant to this division.

6. The corporation may issue negotiable bond anticipation notes and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the corporation not otherwise pledged, or from the proceeds of the sale of bonds of the corporation in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the corporation. Notes shall be issued in the same manner as bonds, and notes and the resolution authorizing them may contain any provisions, conditions, or limitations, not inconsistent with this subsection, which the bonds or a bond resolution of the corporation may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the corporation to the noteholders, the noteholders have all the remedies provided in this division for bondholders. Notes are as fully negotiable as bonds of the corporation.

7. A copy of each pledge agreement by or to the corporation, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under sections 554.9101 to 554.9507, article 9 of the uniform commercial code, or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien

and trust created are binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Neither the officers of the corporation nor any person executing its bonds, notes, or other obligations is liable personally on the bonds, notes, or other obligations or subject to any personal liability or accountability by reason of the issuance of the corporation's bonds or notes.

(83 Acts, ch 207, § 29, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

28.92 Reporting and fund solvency. The chairperson of the corporation on or before July 30 of each fiscal year shall make and deliver a report to the governor and the legislative fiscal committee. The report shall include all transactions conducted by the corporation in the preceding fiscal year. The report shall also include a balance sheet outlining the financial solvency of the Iowa product development corporation fund, a certified copy of any audits of the corporation conducted in the preceding fiscal year, and other information requested by the governor or the legislative fiscal committee.

(83 Acts, ch 207, § 30, 93) SF 548

Effective June 25, 1983

NEW section

28.93 Audits. The auditor of state shall audit the books and accounts of the corporation at least semi-annually. One audit shall be conducted for the preceding fiscal year on or after July 1 of each fiscal year. The results of the yearly audit shall be certified and turned over to the governor no later than July 30 of each fiscal year.

(83 Acts, ch 207, § 31, 93) SF 548

Effective June 25, 1983

NEW section

28.94 Remedies of bondholders and noteholders.

1. If the corporation defaults in the payment of principal or interest on an issue of bonds or notes after they become due, whether at maturity or upon call for redemption, and the default continues for a period of thirty days, or if the corporation fails or refuses to comply with this division, or defaults in an agreement made with the holders of an issue of bonds or notes, the holders of twenty-five percent in aggregate principal amount of bonds or notes of the issue then outstanding, by instrument filed in the office of the clerk of the county in which the principal office of the corporation is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds or notes for the purposes of this section.

2. The corporation or a trustee appointed under the indenture under which the bonds are issued may, and upon written request of the holders of twenty-five percent in aggregate principal amount of the issue of bonds or notes then outstanding shall:

a. Enforce all rights of the bondholders or noteholders, including the right to require the corporation to carry out its agreements with the holders and to perform its duties under this division.

b. Bring suit upon the bonds or notes.

c. By action require the corporation to account as if it were the trustee of an express trust for the holders.

d. By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.

e. Declare all the bonds or notes due and payable and if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of bonds or notes then outstanding, annul the declaration and its consequences.

The bondholders or noteholders, to the extent provided in the resolution by which

the bonds or notes were issued or in their agreement with the corporation, may enforce any of the remedies in paragraphs "a" to "e" or the remedies provided in those agreements for and on their own behalf.

3. The trustee has all powers necessary or appropriate for the exercise of functions specifically set forth or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, the corporation, and the attorney general of the state.

5. The district court has jurisdiction of an action by the trustee on behalf of bondholders or noteholders. The venue of the action is in the county in which the principal office of the corporation is located.

(83 Acts, ch 207, § 32, 93) SF 548

Effective June 25, 1983

The reference in this section to "this division" means sections 28.81 through 28.94

NEW section

CHAPTER 28E

JOINT EXERCISE OF GOVERNMENTAL POWERS

28E.18 Shared use of facilities. Before proceeding to construct or purchase a facility as otherwise provided by law, a public agency shall inquire of other public agencies having facilities within the same general geographic area concerning the availability of all or part of those facilities for rent or sharing by agreement with the inquiring public agency. If there are no suitable facilities available for rent or sharing, the governing body of the public agency shall record its findings in its meeting minutes.

(83 Acts, ch 26, § 1) SF 119

NEW section

28E.19 Joint county indigent defense fund. Two or more counties may execute an agreement under chapter 28E to create a joint county indigent defense fund to be used to compensate attorneys appointed to represent indigents under section 331.778 when funds budgeted for that purpose are exhausted. In addition to other requirements of an agreement under chapter 28E, the agreement shall provide for the amount to be paid by each county based on its population to establish and maintain an appropriate balance in the joint fund, and for a method of repayment if a county withdraws more funds than it has contributed.

(83 Acts, ch 123, § 36, 209) HF 628

NEW section

28E.22 Referendum for tax. The board of supervisors, or the city councils of a district composed only of cities, may, and upon receipt of a petition signed by five percent of the qualified electors residing in the district shall, submit a proposition to the electorate residing in the district at any general election or at a special election held throughout the district. The proposition shall provide for the establishment of a public safety fund and the levy of a tax on taxable property located in the district at rates not exceeding the rates specified in this section for the purpose of providing additional moneys for the operation of the district.

The ballot for the election shall be prepared in substantially the form for submitting special questions at general elections and the form of the proposition shall be substantially as follows:

"Shall an annual levy, the amount of which will not exceed a rate of one dollar and fifty cents per thousand dollars of assessed value of the taxable property in the unified law enforcement district be authorized for providing additional moneys needed for unified law enforcement services in the district?"

Yes

No

If a majority of the qualified electors in each city and the unincorporated area of the county voting on the proposition approve the proposition, the county board of supervisors for unincorporated area and city councils for cities are authorized to levy the tax as provided in section 28E.23.

Such moneys collected pursuant to the tax levy shall be expended only for providing additional moneys needed for unified law enforcement services in the district and shall be in addition to the revenues raised in the county and cities in the district from their general funds which are based upon an average of revenues raised for law enforcement purposes by the county or city for the three previous years. The amount of revenues raised for law enforcement purposes by the county for the three previous years shall be computed separately for the unincorporated portion of the district and for each city in the district.

(83 Acts, ch 79, § 1) SF 118

Unnumbered paragraph 3 amended

28E.23 Budget. The public safety commission, on or before January 10 of each year, shall make an estimate of the total amount of revenue deemed necessary for operation of the district and, in conjunction with the county board of supervisors and city councils in the district, determine the amounts which will be contributed by the county and by each city in the district from its general fund which are based upon an average of revenues raised for law enforcement purposes in the county or city for the three previous years.

One of the following methods shall be used by the public safety commission for computing the amount of revenue deemed necessary for the operation of the district:

1. The per capita cost shall be computed by dividing the amount of revenue deemed necessary for the operation of the district by the total population of the district and by computing separate amounts for the public safety fund as follows:

a. The funds to be contributed by each city in the district shall be computed by multiplying the per capita cost by the population residing in each city of the district.

b. The funds to be contributed by the unincorporated area of the district shall be computed by multiplying the per capita cost by the population residing in the unincorporated area of the district.

2. The percent of service received by the unincorporated area and by each city in the district shall be computed and the percent of service received by each shall be multiplied by the amount of revenue deemed necessary for the operation of the district.

(83 Acts, ch 123, § 37, 209) HF 628

Unnumbered paragraph 1 amended

28E.24 Revenue and tax levies. The county board of supervisors shall certify to the public safety commission the amount of revenue from the county general fund credited to the unincorporated area in the district based upon an average of revenues raised for law enforcement purposes in the unincorporated area for the three previous years. The public safety commission shall subtract this amount from the amount of revenue to be contributed by the unincorporated area. The difference is the amount of additional revenue needed for unified law enforcement purposes.

In addition, the county board of supervisors and the city council of each city in the district shall certify to the public safety commission the amounts of revenue from the county and from the city general fund credited to each city in the district based upon an average of revenues raised for law enforcement purposes in each city for the three previous years. The public safety commission shall subtract the total of these amounts from the amount of revenue to be contributed by each city respectively. The difference for each city is the amount of additional revenue needed for unified law enforcement purposes.

The county board of supervisors and the council of each city located within the district shall review the proposed budget and upon the approval of the budget by the board of supervisors and all city councils in the district, each governing body shall determine the source of the additional revenue needed for unified law enforcement purposes. If the tax levy is approved as the source of revenue, the governing body shall certify to the county auditor the amount of revenue to be raised from the tax levy in either the unincorporated area of the district or a city in the district.

If the tax rate in any of the cities or the unincorporated area exceeds the limitations prescribed in section 28E.22, the public safety commission shall revise the budget to conform with the tax limitations.

The county board of supervisors and the city council of each city in the district shall deposit in the public safety fund the amounts of revenue certified to the public safety commission in this section based upon an average of revenues raised for law enforcement purposes for the three previous years.

If the average of revenues raised for law enforcement purposes in the unincorporated area or a city for the previous three years exceeds the amount of revenue needed for unified law enforcement purposes, the unincorporated area or city is only required to contribute the amount of revenue needed.

Taxes collected pursuant to the tax levies and other moneys received from the county and cities in the district shall be placed in a public safety fund and used only for the operation of the district. Any unencumbered funds remaining in the fund at the end of a fiscal year shall carry over to the next fiscal year and may be used for the operation of the district.

(83 Acts, ch 123, § 38, 39, 209) HF 628

Unnumbered paragraphs 2 and 5 amended

28E.28A Referendum on tax levy — dissolution of district.

1. After five years from the date that a district is established, the public safety commission, upon receipt of a petition signed by fifteen percent of the qualified electors residing in the district, shall submit a proposition to the electorate of the district at the next general election to discontinue the annual levy for unified law enforcement services in the district. If a majority of the qualified electors in each city and the unincorporated area of the county, as applicable, approve the proposition, the tax levy shall be discontinued.

2. If the discontinuation of the tax levy necessitates the dissolution of the district, the public safety commission shall dispose of any remaining property, the proceeds of which shall be applied first against any outstanding obligations of the district and any balance shall be remitted to the county and each city in the district in the same proportion that each jurisdiction contributed to the district's budget in its final fiscal year. The board of supervisors, on behalf of the unincorporated area of the county and the city councils of the cities included in the dissolved district shall continue to levy taxes and appropriate funds to the public safety fund as provided in section 28E.24 until all outstanding obligations of the dissolved district are paid.

(83 Acts, ch 79, § 2) SF 118

NEW section

CHAPTER 28F

JOINT FINANCING OF PUBLIC WORKS AND FACILITIES

28F.1 Scope of chapter. This chapter provides a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, and industrial waste, also electric power facilities constructed within the state of Iowa except that hydroelectric power facilities may also be located in the waters and on the dams of or on land adjacent to either side of the Mississippi or

Missouri river bordering the state of Iowa, water supply systems, swimming pools or golf courses. This chapter applies to the acquisition, construction, reconstruction, ownership, operation, repair, extension, or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof or any combination of the foregoing with other public agencies, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the seal at pleasure, and execute all the powers conferred in this chapter.

A city shall not join an entity created under this chapter for the purpose of financing electric power facilities unless that city owned and operated a municipal electric utility as of July 1, 1981. Power supplied by a municipal power agency may not be furnished to a municipal utility not existing as of July 1, 1981.

After July 1, 1981, a city shall not join an entity created under this chapter or any separate administrative or legal entity created pursuant to chapter 28E for the purpose of utilizing the provisions of this chapter for financing electric power facilities until the proposal for the city to join such an entity has been submitted to and approved by the voters of the city.

The proposal shall be submitted at any city election by the council on its own motion. If a majority of those voting in the city does not approve the proposal, the same or a similar proposal may be submitted to the voters no sooner than one year from the date of the election at which the proposal was defeated.

(83 Acts, ch 127, § 4) HF 312

Unnumbered paragraph 1 amended

CHAPTER 29A

MILITARY CODE

29A.33 Per capita allowance to unit.

\$5 per capita annual allowance to units for fiscal year beginning July 1, 1983, for morale and welfare; 83 Acts, ch 198, § 1 (SF 531)

CHAPTER 29C

DISASTER SERVICES AND PUBLIC DISORDERS

29C.9 Joint county-municipal administration.

1. The county boards of supervisors, city councils and boards of directors of school districts shall cooperate with the office of disaster services to carry out the provisions of this chapter. Boards of supervisors and city councils shall form a joint county-municipal disaster services and emergency planning administration. Such joint administration shall be composed of a member of the county board of supervisors and the mayor or the mayor's representative of the city governments within the county and the sheriff of the county. One member of the joint administration shall be designated as chairperson and one as vice chairperson. The joint administration shall appoint a coordinator who possesses qualifications established by rule of the director of the office of disaster services as provided in chapter 17A. The coordinator shall be responsible to the joint administration for the administration and coordination of all disaster services and emergency planning matters throughout the county, subject to the direction and control of the joint administration. The disaster services and emergency planning coordinator shall prepare a comprehensive countywide disaster plan that is subject to the approval of the state office of disaster services.

The plan shall be integrated into and coordinated with the disaster plans of the state office of disaster services and other political subdivisions within the state. Each county and city located within the county may appropriate money for the purpose of paying expenses relating to disaster services and emergency planning matters of the joint administration and establish a joint county-municipal disaster services fund in the office of the county treasurer. A city's appropriation shall be made from its general fund. The county and cities located in that county may deposit moneys in the fund, which shall be used for the purpose of paying expenses relating to disaster services and emergency planning matters of the joint administration. Any reimbursement, matching funds, or moneys received from sale of property obtained through the surplus property program or moneys obtained from any source in connection with the disaster services and emergency planning program, shall be deposited in the joint disaster services fund. Withdrawal of moneys from the joint county-municipal disaster services fund may be made on warrants drawn by the county auditor, supported by claims and vouchers signed by the chairperson or vice chairperson of the joint administration and the coordinator of the joint county-municipal disaster services and emergency planning administration.

2. No later than November 15 of each year the joint county-municipal disaster services co-ordinator and the joint administration shall prepare a proposed budget of all expenses for the ensuing fiscal year. The proposed budget shall include estimated expenses that might be incurred in the event of a natural disaster including, but not limited to, hurricanes, tornadoes, windstorms, or floods, and the necessary training, warning, protection facilities and equipment necessary to minimize the loss of life in the event of acts of aggression. The budget shall contain an itemized list of the proposed salaries of disaster services and emergency planning personnel, their number and their compensation, the estimated amount needed for personnel benefits, travel and transportation, transportation of equipment, rent, communications and utilities, printing and reproduction, supplies and material, equipment, and other services needed. Each year, the chairperson of the joint administration shall, by written notice, call a meeting of the joint administration to consider such proposed budget. The joint administration shall adopt a budget for the ensuing federal fiscal year not later than January 15. At such meeting, the joint administration shall authorize:

a. The number of personnel for disaster services and emergency planning activities, full-time and part-time employment;

b. The salaries and compensation of disaster services and emergency planning employees. Those employees coming under the merit system will include salary scheduled for various classes in which the salary of a class is adjusted to the responsibility and difficulty of the work;

c. The amount of operating expenses as contained in the proposed budget. All expenditures shall be subject to the provisions of chapter 24, and the chairperson or vice chairperson of the joint administration are declared to be the certifying officials.

3. The joint administration shall be responsible for the direction, administration, and co-ordination of disaster services and emergency planning matters in the county. The joint administration shall co-ordinate its services in the event of a disaster. The co-ordinator may, with the approval of the joint administration, employ such technical, clerical and administrative personnel as may be required and necessary to carry out the purposes of this section. The joint administration shall fix the compensation of such persons so employed to be paid out of the disaster services and emergency planning fund created by this chapter.

4. If an approved comprehensive countywide disaster plan has not been prepared within one year after the effective date of this chapter and the director of the office of disaster services finds that satisfactory progress is not being made toward the completion of such plan, or if the director finds that a joint county-municipal disaster

monument (or levy a tax of per thousand dollars of assessed value for a period of years to defray the expense of the building or monument)?”

(83 Acts, ch 123, § 41, 209) HF 628

Amended

37.4 Notice. Notice of the election shall be given by publication in one newspaper published or having general circulation in the city as provided in section 362.3. The notice shall state the purpose of the memorial proposed as outlined in section 37.18.

(83 Acts, ch 123, § 42, 209) HF 628

Amended

37.8 Levy for maintenance. For the development, operation, and maintenance of a building or monument constructed, purchased, or donated under this chapter, a city may levy a tax not to exceed eighty-one cents per thousand dollars of assessed value on all the taxable property within the city, as provided in section 384.12, subsection 2.

(83 Acts, ch 123, § 43, 209) HF 628

Amended

37.28 Anticipatory warrants. If the funds raised under this chapter are insufficient for any fiscal year to pay the principal and interest due in that year on bonds issued for hospital purposes under section 37.6 and to pay the expenses of the operation and maintenance of the hospital and any other hospital expenses authorized by this chapter for the fiscal year, the commission may issue anticipatory warrants drawn on the funds to be raised. The warrants shall be in denominations of one hundred, five hundred and one thousand dollars and shall draw interest at a rate not exceeding that permitted by chapter 74A. These warrants are not a general obligation of any political subdivision which owns the hospital.

(83 Acts, ch 123, § 44, 209) HF 628

Amended

37.30 Registration — call. All anticipatory warrants drawn under this chapter shall be numbered consecutively, be registered in the office of the treasurer of a political subdivision which owns the hospital and be subject to call in numerical order at any time when sufficient money derived from the tax levied is in the hands of the treasurer to retire any of the warrants together with accrued interest.

(83 Acts, ch 123, § 45, 209) HF 628

Amended

CHAPTER 39

TIME OF ELECTION AND TERM OF OFFICE

39.17 County officers. There shall be elected in each county at the general election to be held in the year 1976 and every four years thereafter, an auditor and a sheriff, each to hold office for a term of four years.

There shall be elected in each county at the general election to be held in 1974 and each four years thereafter, a treasurer, a recorder and a county attorney who shall hold office for a term of four years.

(83 Acts, ch 186, § 10015, 10201) SF 495

Unnumbered paragraph 1 amended

39.24 School officers. Members of boards of directors of community and independent school districts, and boards of directors of merged areas shall be elected at the school election. Their terms of office shall be three years, except as otherwise provided by section 275.23A or 280A.11.

(83 Acts, ch 77, § 1) SF 485

Amended

CHAPTER 43

PARTISAN NOMINATIONS — PRIMARY ELECTION

43.4 Political party precinct caucuses. Delegates to county conventions of political parties and party committee members shall be elected at precinct caucuses held not later than the fourth Monday in February of each even-numbered year. The date shall be at least eight days earlier than the scheduled date for any meeting, caucus or primary which constitutes the first determining stage of the presidential nominating process in any other state, territory or any other group which has the authority to select delegates in the presidential nomination. The state central committees of the political parties shall set the date for their caucuses. The county chairperson of each political party shall issue the call for the caucuses. The county chairperson shall file with the commissioner the meeting place of each precinct caucus at least seven days prior to the date of holding the caucus.

There shall be selected among those present at a precinct caucus a chairman and a secretary who shall forthwith certify to the county central committee and the county commissioner the names of those elected as party committeemen and delegates to the county convention.

The central committee of each political party shall notify the delegates and committeemen so elected and certified of their election and of the time and place of holding the county convention. Such conventions shall be held either preceding or following the primary election but no later than ten days following the primary election and shall be held on the same day throughout the state.

(83 Acts, ch 138, § 1) SF 552

Unnumbered paragraph 1 amended

CHAPTER 44

NOMINATIONS BY NONPARTY POLITICAL ORGANIZATIONS

44.7 Hearing before commissioner. Objections filed with the commissioner shall be considered by the county auditor, county treasurer, and county attorney, and a majority decision shall be final; but if the objection is to the certificate of nomination of one or more of the above named county officers, the officer or officers objected to shall not pass upon the objection, but their places shall be filled, respectively, by the chairperson of the board of supervisors, the sheriff, and the county recorder.

(83 Acts, ch 186, § 10016, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

CHAPTER 46

NOMINATION AND ELECTION OF JUDGES

46.5 Vacancies. When a vacancy occurs in the office of appointive judicial nominating commissioner, the chairman of the particular commission shall promptly notify the governor in writing of such fact. Vacancies in the office of appointive judicial nominating commissioner shall be filled by appointment by the governor. The term of state judicial nominating commissioners so appointed shall commence upon their appointment pending confirmation by the senate at the then session of the general assembly or at its next session if it is not then in session. The term of district judicial nominating commissioners so appointed shall commence upon their appointment.

Except where the term has less than ninety days remaining, vacancies in the office

of elective member of the state judicial nominating commission shall be filled by a special election within the congressional district where the vacancy occurs, such election to be conducted as provided in sections 46.9 and 46.10.

Vacancies in the office of elective judicial nominating commissioner of district judicial nominating commissions shall be filled by majority vote of the authorized number of elective members of the particular commission, at a meeting of such members called in the manner provided in section 46.13. The term of judicial nominating commissioners so chosen shall commence upon their selection.

If a vacancy occurs in the office of chairman of a judicial nominating commission, or in the absence of the chairman, the members of the particular commission shall elect a temporary chairman from their own number.

When a vacancy in an office of an elective judicial nominating commissioner occurs, the clerk of the supreme court shall arrange for the publication of a notice stating the existence of the vacancy and the manner in which the vacancy will be filled in those publications which the clerk of the supreme court deems likely to give reasonable notice to the eligible voting members of the bar of the district in which the vacancy occurs. The election of a district judicial nominating commissioner or the close of nominations for a state judicial nominating commissioner shall not occur until thirty days after the publication of the notice.

(83 Acts, ch 186, § 10017, 10201) SF 495

NEW unnumbered paragraph 5

46.7 Eligibility to vote. To be eligible to vote in elections of judicial nominating commissioners, a member of the bar must be a resident of the state of Iowa and of the appropriate congressional district or judicial election district as shown by the member's most recent filing with the supreme court for the purposes of showing compliance with the court's continuing legal education requirements. A judge who has been admitted to the bar of the state of Iowa shall be considered a member of the bar.

(83 Acts, ch 186, § 10018, 10201) SF 495

Amended

46.8 Certified list. On June 1 of each year the clerk of the supreme court shall certify a list of the names, addresses, and years of admission of members of the bar who are eligible to vote for state and district judicial nominating commissioners. The clerk of the supreme court shall provide a copy of the list of the members for a county to the clerk of the district court for that county.

(83 Acts, ch 186, § 10019, 10201) SF 495

Struck and rewritten

46.9 Conduct of elections. When an election of judicial nominating commissioners is to be held, the clerk of the supreme court shall cause ballots to be mailed in accordance with the current certified list of resident members of the bar to such members of the proper districts, substantially as follows:

Iowa State (or Iowa Judicial District)
Judicial Nominating Commission

BALLOT

To be cast by the resident members of the bar of the Congressional (or Judicial) District of Iowa.

Vote for (state number) for Iowa State (or Iowa Judicial District) judicial nominating commissioner(s) for term commencing

CANDIDATE'S NAME

CANDIDATE'S NAME

-
-

To be counted, this ballot must be completed and mailed or delivered to Clerk of the Supreme Court of Iowa, Des Moines, Iowa, not later than January 31, 19..... (or the appropriate date under section 46.5 in case of an election to fill a vacancy).

DESTROY BALLOT IF NOT USED

The elector receiving the most votes shall be elected. When more than one commissioner is to be elected, the electors receiving the most votes shall be elected, in the same number as the offices to be filled.

The ballot must be completed and mailed or delivered to the clerk of the supreme court prior to expiration of the period within which the election must be held.

The ballots shall be counted under the direction of the clerk of the supreme court.
(83 Acts, ch 186, § 10020, 10201) SF 495
 Unnumbered paragraph 4 amended

46.15 Appointments to be from nominees. All appointments to the supreme court and court of appeals shall be made from the nominees of the state judicial nominating commission, and all appointments to the district court shall be made from the nominees of the district judicial nominating commission. Nominees to the court of appeals shall have the qualifications prescribed for nominees to the supreme court.

Vacancies in the court of appeals shall be filled by appointment by the governor from a list of nominees submitted by the state judicial nominating commission. Five nominees shall be submitted for each vacancy. If the governor fails to make an appointment within thirty days after a list of nominees has been submitted, the appointment shall be made from the list of nominees by the chief justice of the supreme court.

(83 Acts, ch 186, § 10021, 10201) SF 495
 Unnumbered paragraph 2 amended

46.16 Terms of judges.

1. Subject to sections 602.1610 and 602.1612 and to removal for cause:

a. The initial term of office of judges of the supreme court, court of appeals and district court shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year; and

b. The regular term of office of judges of the supreme court retained at a judicial election shall be eight years, and of judges of the court of appeals and district court so retained shall be six years, from the expiration of their initial or previous regular term as the case may be.

For the purpose of initial appointments to the court of appeals, two of the judges appointed shall serve an irregular term ending December 31 of the fourth year after expiration of the initial term prescribed in subsection 1 and two of the judges appointed shall serve an irregular term ending December 31 of the fifth year after expiration of the initial term prescribed in subsection 1. Expiration of irregular terms shall be deemed expiration of regular terms for all purposes.

2. Subject to removal for cause, the initial term of office of a district associate judge shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year, and the regular term of office of a district associate judge retained at a judicial election shall be four years from the expiration of the initial or previous regular term, as the case may be.

(83 Acts, ch 186, § 10022, 10201) SF 495
 Subsection 1, unnumbered paragraph 1 amended

46.20 Declaration of candidacy. At least ninety days prior to the judicial election preceding expiration of the initial or regular term of office, a judge of the supreme court, court of appeals or district court including district associate judges, or a clerk of the district court who is required to stand for retention under section 602.1216 may file a declaration of candidacy with the state commissioner of elections to stand for retention or rejection at that election. If a judge or clerk fails to file the declaration, the office shall be vacant at the end of the term. District associate judges filing the declaration shall stand for retention in the judicial election district of their residence.

(83 Acts, ch 186, § 10023, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

46.21 Conduct of elections. At least fifty-five days prior to each judicial election, the state commissioner of elections shall certify to the county commissioner of elections of each county a list of the judges of the supreme court, court of appeals and district court including district associate judges, and clerks of the district court to be voted on in each county at that election. The county commissioner of elections shall place the names upon the ballot in the order in which they appear in the certificate, unless only one county is voting thereon. The state commissioner of elections shall rotate the names in the certificate by county, or the county commissioner of elections shall rotate them upon the ballot by precinct if only one county is voting thereon. The names of all judges and clerks to be voted on shall be placed upon one ballot, which shall be in substantially the following form:

STATE OF IOWA
JUDICIAL BALLOT
(Date)

VOTE ON ALL NAMES BY PLACING AN X IN THE APPROPRIATE BOX AFTER EACH NAME.

SUPREME COURT

Shall the following judges of the Supreme Court be retained in office?

| | | |
|-------------|------------------------------|-----------------------------|
| JOHN DOE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| RICHARD ROE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

COURT OF APPEALS

Shall the following judges of the Court of Appeals be retained in office?

| | | |
|-------------|------------------------------|-----------------------------|
| JOHN DOE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| RICHARD ROE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

DISTRICT COURT

Shall the following judge or associate judge of the District Court be retained in office?

| | | |
|------------|------------------------------|-----------------------------|
| JOHN SMITH | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
|------------|------------------------------|-----------------------------|

Shall the following clerk of the District Court be retained in office?

| | | |
|----------|------------------------------|-----------------------------|
| JANE DOE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
|----------|------------------------------|-----------------------------|

(83 Acts, ch 186, § 10024, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

46.24 Results of election. A judge of the supreme court, court of appeals, or district court including a district associate judge, or a clerk of the district court must receive more affirmative than negative votes to be retained in office. When the poll is closed, the election judges shall publicly canvass the vote forthwith. The board of supervisors shall canvass the returns at its meeting on Monday after the election, and shall promptly certify the number of affirmative and negative votes on each judge or clerk to the state commissioner of elections.

The state board of canvassers shall, at the time of canvassing the vote cast at a general election, open and canvass all of the returns for the judicial election. Each judge of the supreme court, court of appeals or district court including a district associate judge, or a clerk of the district court who has received more affirmative than negative votes shall receive from the state board of canvassers an appropriate certificate so stating.

(83 Acts, ch 186, § 10025, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

CHAPTER 47

ELECTION COMMISSIONERS

47.7 State registrar of voters.

1. The senior administrator of data processing services in the office of the state comptroller is designated the state registrar of voters, and shall regulate the preparation, preservation and maintenance of voter registration records, the preparation of precinct election registers for all elections administered by the commissioner of any county, and the preparation of other data on voter registration and participation in elections as shall be requested and purchased at actual cost of preparation and production by a political party or any resident of this state. The registrar shall maintain a log, which shall be a public record, showing all lists and reports which have been requested or generated or which are capable of being generated by existing programs of the data processing services in the office of the state comptroller.

2. The registrar shall offer to each county in the state the opportunity to arrange for performance of all functions referred to in subsection 1 by the data processing facilities of the state comptroller's office, commencing at the earliest practicable time, at a cost to the county determined in accordance with the standard charges for those services adopted by the registration commission. A county may accept this offer without taking bids under section 47.5.

3. Any county may use its own data processing facilities for voter registration record keeping and utilization functions, if the system design and the form in which the registration records are kept conform to specifications established by rules promulgated by the registration commission. Each county exercising the option to maintain its own voter registration records under this subsection shall provide the registrar, at the county's expense, original and updated voter registration lists in a form and at times prescribed by the registrar.

4. Not later than July 1, 1984, information listed in section 48.6 contained in a county's manual records but not on the county's computer readable records shall be provided to the registrar in a form specified by the registrar. The registrar shall require that any information supplied under section 48.6, except subsections 9 and 11, be provided to the registrar in a form specified by the registrar.

(83 Acts, ch 176, § 1, 10) SF 545

Reimbursement of counties for recording telephone numbers of registered voters: 83 Acts, ch 176, § 10 (SF 545)

NEW subsection 4

47.8 Voter registration commission — composition — duties.

Charges to be increased to cover claims submitted by counties for recording telephone numbers of registered voters; 83 Acts, ch 176, § 10 (SF 545)

CHAPTER 48**PERMANENT REGISTRATION**

48.6 Form of records. The registration forms shall be large enough to contain the necessary information required in legible writing and shall be suitable for mailing. The registration form shall require the following information to be provided:

1. The name of the applicant in full.
2. Residence, giving name and number of the street, avenue, or other location of the dwelling, and such additional clear and definite description as may be necessary to give the exact location of the residence of the applicant. Post-office box numbers shall not be used unless no other method of identifying the residence exists for the community.

3. Date of birth.

4. Sex.

5. Date of registration.

6. Ward, precinct, school district, and such other districts in which the registrant resides which are empowered to call special elections. To assist in making this determination the commissioner may also request other information including but not limited to fire district number or township, range and section number of the location of the applicant's residence. The commissioner may if necessary obtain the needed information from other sources, but shall in no case decline to register an applicant because the applicant is unable to provide any of the information referred to in this subsection.

7. Name, if different than current name, and address given on applicant's last previous registration.

8. Party affiliation. No party affiliation need be stated if the applicant declines to make such statement.

9. A statement in substantially the following form:

"I state that I am or will be an eligible elector at any election at which I attempt to vote and that all of the information I have given upon this voter registration form is true. I hereby authorize cancellation of any prior registration to vote in this or any other jurisdiction and my eligibility to vote in any jurisdiction where voter registration is not required. I am aware that fraudulently registering, or attempting to do so, is a felony under Iowa law." At the time the registration is signed by the eligible elector it shall also be signed by a mobile registrar, employee of the commissioner's office, or other eligible elector.

10. The social security number of the applicant, if available.

11. The signature of the applicant.

12. Residential telephone number if available.

A receipt of registration shall be given to each applicant, indicating the date the registration will become effective.

(83 Acts, ch 176, § 3, 10) SF 545

Recording of residential telephone numbers of registered voters; 83 Acts, ch 176, § 10 (SF 545)

Subsection 12 amended

48.7 Notice of change of name, address or telephone number.

1. A qualified elector may record a legal change of name or a change of telephone number or address, for voter registration purposes, by one of the following methods:

- a. The qualified elector may submit to the commissioner a form of the type provided for electors registering under section 48.3 providing for the elector's current name, telephone number, social security number and address and the elector's

signature. Upon receipt of the form, the commissioner shall change the registration records accordingly and the change shall be reflected in the election registers prepared for the next election held ten or more days after receipt of the qualified elector's notice. If the form received by the commissioner does not contain the information regarding name and address necessary to properly update the registration records, the commissioner shall immediately send notice to the elector, by forwardable mail directed to the elector's last known address, that the elector's registration is defective. The commissioner's notice shall advise the elector of the corrections necessary.

b. A qualified elector may record a change of name, telephone number, or address on election day at the polling place for the precinct in which the elector currently resides, if the elector's name or former name appears on the election register of that polling place for the election being held that day. The precinct election officials shall furnish such a qualified elector a registration form of the type prescribed for use by electors registering under section 48.3. The elector shall complete the form and submit it to the precinct election officials, who shall return it to the commissioner with the election supplies. If the qualified elector's former address and new address are in different counties, the registration form completed by the qualified elector shall be forwarded to the commissioner of the elector's current county of residence by the commissioner conducting the election.

2. The commissioner shall record a change of address for a qualified elector, without the necessity of action by the elector, in any of the following circumstances in which the elector's mailing address is changed but the elector's place of residence has not actually changed:

a. Annexation of territory to a city. When a city annexes territory, the city clerk shall furnish the commissioner a detailed map of the annexed territory. The commissioner shall change the registration of persons residing in that territory to reflect the annexation and the city precinct to which each of those persons is assigned. If the commissioner cannot determine the names and addresses of the persons affected by the annexation, the commissioner shall send each person who may be involved a letter informing that person that his or her registration may be in error, and requesting that each person provide the commissioner the information necessary to correct the registration records.

b. Change of official street name or house or building number by a city. When the city changes the name of a street or the number of a house or other building in which an individual resides, the city clerk shall inform the commissioner of the change, and the commissioner shall change the registration of each person affected.

c. Change of rural route designation of the residence of a qualified elector. The commissioner shall request each postmaster in the county to inform the commissioner of each change of rural route designation and the names of the persons affected, and shall change the registration of each such person as appropriate.

(83 Acts, ch 176, § 4) SF 545

Subsection 1, paragraph a amended

48.9 Use of universities' facilities. The state board of regents shall provide access to the designated public portions of its university residence halls and lounges for a registrar, deputy registrar, mobile deputy registrar, person delivering voter registration forms provided in section 48.3 to register eligible electors, or a candidate. The state board of regents may establish reasonable restrictions on the time, manner and place of access by those registrars, persons and candidates.

(83 Acts, ch 176, § 2) SF 545

NEW section

CHAPTER 49

METHOD OF CONDUCTING ELECTIONS

49.8 Changes in precincts. After any required changes in precinct boundaries have been made following each federal decennial census, at the time established by or pursuant to section 49.7, the county board or city council shall make no further changes in precinct boundaries until after the next federal decennial census, except in the following circumstances:

1. When deemed necessary by the board of supervisors of any county because of a change in the location of the boundaries, dissolution or establishment of any civil township, the boundaries of precincts actually affected may be changed as necessary to conform to the new township boundaries.

2. When territory is annexed to a city the city council may attach all or any part of the annexed territory to any established precinct or precincts which are contiguous to the annexed territory, however this subsection shall not prohibit establishment of one or more new precincts in the annexed territory.

3. A city may have one special federal census taken each decade and the population figures obtained may be used to revise precinct boundaries in accordance with the requirements of sections 49.3 and 49.5.

4. When the boundaries of a county supervisor, city council, or school director district, or any other district from which one or more members of any public representative body other than the general assembly are elected by the voters thereof, are changed by annexation, reprecincting or other means, the change shall not result in the term of any officer elected from the former district being terminated before or extended beyond the expiration of the term to which the officer was last elected, except as provided under section 275.23A.

5. Precinct boundaries established by or pursuant to section 49.4, and not changed under subsection 1 since the most recent federal decennial census, may be changed once during the period beginning January 1 of the second year following a year in which a federal decennial census is taken and ending June 30 of the year immediately following the year in which the next succeeding federal decennial census is taken, if the commissioner recommends and the board of supervisors finds that the change will effect a substantial savings in election costs.

(83 Acts, ch 77, § 2) SF 485

Subsection 4 amended

49.48 Notice for judicial officers and constitutional amendments. The state commissioner of elections shall prescribe a notice to inform voters that the top of the ballot contains the form for retaining or removing judicial officers and for ratifying or defeating proposed constitutional amendments. The notice shall be conspicuously attached to the voting machine or to the ballot.

(83 Acts, ch 186, § 10026, 10201) SF 495

NEW section

49.51 Commissioner to control printing. The commissioner shall have charge of the printing of the ballots to be used for any election held in the county, unless the commissioner delegates that authority as permitted by this section. The commissioner may delegate this authority only to another commissioner who is responsible under section 47.2 for conducting the elections held for a political subdivision which lies in more than one county, and only with respect to printing of ballots containing only public questions or the names of candidates to be voted upon by the qualified electors of that political subdivision. Only one facsimile signature, that of the commissioner under whose direction the ballot is printed, shall appear on the ballot. It is the duty of the commissioner to insure that the arrangement of any ballots printed under his or her direction conforms to all applicable requirements of this chapter.

A sample ballot of any election held in the county shall be forwarded as soon as available to the campaign finance disclosure commission.

(83 Acts, ch 139, § 1, 14) SF 457

Effective January 1, 1984

NEW unnumbered paragraph 2

49.77 Ballot furnished to voter.

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the precinct, ward or township, city of, county of, Iowa.

I am a qualified elector. I have not voted and will not vote in any other precinct in said election.

(For primary election only:) I am affiliated with the party.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

.....
Signature of Voter

.....
Address

Approved:

.....

Board Member

2. One of the precinct election officials shall announce the elector's name aloud for the benefit of any persons present pursuant to section 49.104, subsections 2, 3 or 5. Any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials.

3. A precinct election official may require of an elector unknown to the official, identification upon which the elector's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.

4. A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote unless the commissioner informs the precinct election officials that an error has occurred and that the person is a qualified elector of that precinct. If the commissioner finds no record of the person's registration but the person insists that he or she is a qualified elector of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.

(83 Acts, ch 176, § 5) SF 545

Recording of residential telephone numbers of electors; 83 Acts, ch 176, § 10 (SF 545)

Subsection 2 amended

CHAPTER 52

ALTERNATIVE VOTING SYSTEMS

52.3 Terms of purchase — tax levy. The county board of supervisors, on the adoption and purchase of a voting machine or an electronic voting system, may issue bonds under section 331.441, subsection 2, paragraph "b", subparagraph (1).

(83 Acts, ch 123, § 46, 209) HF 628

Amended

CHAPTER 53

ABSENT VOTERS LAW

53.2 Application for ballot. Any qualified elector, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, make written application to the commissioner for an absentee ballot.

Nothing in this section shall be construed to require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document except the absent voter's affidavit required by section 53.13, be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

Each application shall contain the name and signature of the qualified elector, the address at which he is qualified to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the qualified elector. If insufficient information has been provided, the commissioner shall, by the best means available, obtain the additional necessary information.

If the application is for a primary election ballot and the request is for a ballot of a party different from that recorded on the qualified elector's voter registration record, the requested ballot shall be mailed or given to the applicant together with a "Change or Declaration of Party Affiliation" form as prescribed in section 43.42, to be completed by the qualified elector at the time of voting. Upon receipt of the properly completed form, the commissioner shall approve the change or declaration and enter a notation of the change on the registration records.

(83 Acts, ch 176, § 6) SF 545

NEW unnumbered paragraph 4

53.8 Ballot mailed.

1. Upon receipt of an application for an absentee ballot and immediately after the absentee ballots are printed, it shall be the duty of the commissioner to mail an absentee ballot to the applicant within twenty-four hours, except as otherwise provided in subsection 3. The absentee ballot shall be enclosed in an unsealed envelope bearing a serial number and affidavit. The absentee ballot and unsealed envelope shall be enclosed in a carrier envelope which bears the same serial number as the unsealed envelope. The absentee ballot, unsealed envelope, and carrier envelope shall be enclosed in a third envelope to be sent to the qualified elector.

2. If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant or the applicant's designee to personally deliver the completed absentee ballot to the office of the commissioner at any time before the closing of the polls on election day.

3. When an application for an absentee ballot is received by the commissioner of any county from a qualified elector who is a patient in a hospital in that county

or a resident of any facility in that county shown to be a health care facility by the list of licenses provided the commissioner under section 135C.29, the absentee ballot shall be delivered to the elector and returned to the commissioner in the manner prescribed by section 53.22. However, if the application is received more than ten calendar days before the election, the commissioner shall mail to the applicant within twenty-four hours a letter in substantially the following form:

"Your application for an absentee ballot for the election to be held on has been received. This ballot will be personally delivered to you by a bipartisan team sometime during the ten days preceding the election. If you will not be at the address from which your application was sent during any or all of the ten-day period immediately preceding the election, contact this office and arrangements will be made to have your absentee ballot delivered at a time when you will be present at that address."

Nothing in this subsection nor in section 53.22 shall be construed to prohibit a qualified elector who is a hospital patient or resident of a health care facility, or who anticipates entering a hospital or health care facility before the date of a forthcoming election, from casting an absentee ballot in the manner prescribed by section 53.11.

(83 Acts, ch 176, § 7) SF 545

Subsection 2 amended

CHAPTER 56

CAMPAIGN FINANCE DISCLOSURE

56.2 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Candidate*" means any individual who has taken affirmative action to seek nomination or election to a public office but shall exclude any judge standing for retention in a judicial election.

2. "*Public office*" means any federal, state, county, city, or school office filled by election.

3. "*County office*" includes the office of drainage district trustee.

4. "*Contribution*" means:

a. A gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind.

b. The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee for any such purpose.

"Contribution" shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate's committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association. "Contribution" shall not include refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value computed at a rate of twenty cents per mile does not exceed one hundred dollars in value in any one reporting period.

5. "*Person*" means, without limitation, any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

6. "*Political committee*" means a committee, but not a candidate's committee, which accepts contributions, makes expenditures, or incurs indebtedness in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office or ballot issue, or an association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional

organization which makes contributions in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office or a ballot issue.

7. "*State statutory political committee*" means a committee as defined in section 43.111.

8. "*County statutory political committee*" means a committee as defined in section 43.100.

9. "*Campaign function*" means any meeting related to a candidate's campaign for election.

10. "*Commission*" means the campaign finance disclosure commission created under section 56.9.

11. "*State income tax liability*" means the state individual income tax imposed under section 422.5 reduced by the sum of the deductions from the computed tax as provided under section 422.12.

12. "*Fund-raising event*" means any campaign function to which admission is charged or at which goods or services are sold.

13. "*Candidate's committee*" means the committee designated by the candidate to receive contributions, expend funds, or incur indebtedness in excess of two hundred fifty dollars in any calendar year on behalf of the candidate.

14. "*Committee*" includes a political committee and a candidate's committee.

15. "*Disclosure report*" means a statement of contributions received, expenditures made, and indebtedness incurred on forms prescribed by rules promulgated by the commission in accordance with chapter 17A.

16. "*Ballot issue*" means a question, other than the nomination or election of a candidate to a public office, which has been approved by a political subdivision or the general assembly or is required by law to be placed before the voters of the political subdivision by a commissioner of elections, or to be placed before the voters by the state commissioner of elections.

17. "*National political party*" means a party which meets the definition of a political party established for this state by section 43.2, and which also meets the statutory definition of the term "political party" or a term of like import in at least twenty-five other states of the United States.

(83 Acts, ch 139, § 2, 14) SF 457

Effective January 1, 1984

Subsection 6 amended

56.3 Committee treasurer — duties.

1. Every committee shall appoint a treasurer. An expenditure shall not be made by the treasurer or treasurer's designee for or on behalf of a committee without the approval of the chairman of the committee, or the candidate.

2. Every person who receives contributions in excess of one hundred dollars for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer an account of the total of all contributions; including the name and address of the persons making a contribution in excess of ten dollars, the amount of such contribution, and the date on which the contributions were received. All funds of a committee shall be segregated from any personal funds of officers, members, or associates of the committee.

3. The treasurer of a committee shall keep a detailed and exact account of:

a. All contributions made to or for the committee.

b. The name and mailing address of every person making contributions in excess of ten dollars, and the date and amount of the contribution.

c. All disbursements made from contributions by or on behalf of the committee.

d. The name and mailing address of every person to whom any expenditure is made, the purpose of the expenditure, the date and amount of the expenditure and the name and address of, and office sought by each candidate, if any, on whose behalf the expenditure was made. Notwithstanding this paragraph, the treasurer may keep

a miscellaneous account for disbursements of less than five dollars which need only show the amount of the disbursement so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars.

e. Notwithstanding the provisions of subsection 3, paragraph "d", of this section, when an expenditure is made by a committee in support of the entire state or local political party ticket, only the name of the party shall be given.

4. The treasurer shall preserve all records required to be kept by this section for a period of one year from the date of the election.

(83 Acts, ch 139, § 3, 14) SF 457

Effective January 1, 1984

Subsection 3, paragraph d amended

56.6 Disclosure reports.

1. a. Each treasurer of a committee shall file with the commission or commissioner disclosure reports of contributions received and disbursed on forms prescribed by rules as provided by chapter 17A. The reports from all committees, except those committees for municipal and school elective offices and for local ballot issues, shall be filed on the twentieth day or mailed bearing a United States postal service postmark dated on or before the nineteenth day of January, May, July and October of each year. The May, July and October reports shall be current as of five days prior to the filing deadline. The January report shall be the annual report covering activity through December 31. A candidate's committee, other than for municipal and school elective offices, for a year in which the candidate is not standing for election is not required to file the May and July reports. Reports for committees for a ballot issue placed before the voters of the entire state shall be filed at the January, May, July, and October deadlines.

b. A candidate's committee of a candidate for statewide office or the general assembly shall file a supplementary report in a year in which a primary, general or special election for that office is held if the committee of a candidate for statewide office receives ten thousand dollars or more or the committee of a candidate for the general assembly receives two thousand dollars or more after the close of the period covered by the last report filed prior to that primary, general or special election. The amounts of contributions causing a supplementary report under this paragraph shall include the estimated fair market value of in kind contributions. The report shall be filed by the Friday immediately preceding the election and be current through the Tuesday immediately preceding the election.

c. A candidate's committee for a candidate for the general assembly at a special election shall file a report by the fourteenth day prior to the special election which is current through the nineteenth day prior to the special election.

d. Committees for municipal and school elective offices and local ballot issues shall file their first reports five days prior to any election in which the name of the candidate or the local ballot issue which they support or oppose appears on the printed ballot and shall file their next report on the first day of the month following the final election in a calendar year in which the candidate's name or the ballot issue appears on the ballot. A committee supporting or opposing a candidate for a municipal or school elective office or a local ballot issue shall continue to file a disclosure report on the first day of every month until it dissolves. These reports shall be current to five days prior to the filing deadline and are considered timely filed if mailed bearing a United States postal service postmark one or more calendar days preceding the due date.

e. A state statutory political committee and congressional district committees as authorized by the constitution of the state statutory political committee are not subject to this subsection if the state statutory political committee and congressional district political committees file copies of campaign disclosure reports as required by federal law with the commission at the times the reports are required to be filed

under federal law, provided that the federal reports contain all information required by this chapter. A committee of a national political party is not required to file a disclosure report with the commission if it is required by federal law to file a campaign disclosure report with a federal agency.

2. If any committee, after having filed a statement of organization or one or more disclosure reports, dissolves or determines that it shall no longer receive contributions or make disbursements, the treasurer of the committee shall notify the commission or the commissioner within thirty days following such dissolution by filing a dissolution report on forms prescribed by the commission. Moneys refunded in accordance with a dissolution statement shall be considered a disbursement or expense but the names of persons receiving refunds need not be released or reported unless the contributors' names were required to be reported when the contribution was received.

3. Each report under this section shall disclose:

a. The amount of cash on hand at the beginning of the reporting period.

b. The name and mailing address of each person who has made one or more contributions of money to the committee including the proceeds from any fund-raising events except those reportable under paragraph "f" of this subsection, when the aggregate amount in a calendar year exceeds the amount specified in the following schedule:

| | |
|--|-------|
| (1) For any candidate for school or township office..... | \$ 25 |
| (2) For any candidate for city office..... | \$ 25 |
| (3) For any candidate for county office..... | \$ 25 |
| (4) For any candidate for the general assembly..... | \$ 25 |
| (5) For any candidate for the Congress of the United States..... | \$100 |
| (6) For any candidate for statewide office..... | \$ 25 |
| (7) For any committee of a national political party..... | \$200 |
| (8) For any state statutory political committee..... | \$200 |
| (9) For any county statutory political committee..... | \$ 50 |
| (10) For any other political committee..... | \$ 50 |
| (11) For any ballot issue..... | \$ 25 |

c. The total amount of contributions made to the political committee during the reporting period and not reported under paragraph "b" of this subsection.

d. The name and mailing address of each person who has made one or more in kind contributions to the committee when the aggregate market value of the in kind contribution in a calendar year exceeds the amount specified in subsection 3, paragraph "b," of this section. In kind contributions shall be designated on a separate schedule from schedules showing contributions of money and shall identify the nature of the contribution and provide its estimated fair market value.

e. Each loan to any person or committee within the calendar year in an aggregate amount in excess of those amounts enumerated in the schedule in paragraph "b" of this subsection, together with the name and mailing address of the lender and endorsers, the date and amount of each loan received, and the date and amount of each loan repayment. Loans received and loan repayments shall be reported on a separate schedule.

f. The total amount of proceeds from any fund-raising event. Contributions and sales at fund-raising events which involve the sale of a product acquired at less than market value and sold for an amount of money in excess of the amount specified in paragraph "b" of this subsection shall be designated separately from in kind and monetary contributions and the report shall include the name and address of the donor, a description of the product, the market value of the product, the sales price of the product, and the name and address of the purchaser.

g. The name and mailing address of each person to whom disbursements or loan repayments have been made by the committee from contributions during the reporting period and the amount, purpose, and date of each disbursement except

that disbursements of less than five dollars may be shown as miscellaneous disbursements so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars.

h. The amount and nature of debts and obligations owed in excess of those amounts stated in the schedule in paragraph "b" of this section by the committee. Loans made to a committee and reported under paragraph "b" of this subsection shall not be considered a debt or obligation under this paragraph. A loan made by a committee to any person shall be considered a disbursement.

i. Such other information as may be required by this chapter or rules adopted pursuant to this chapter.

j. The aggregate amount received by a candidate or an officeholder in any form of an honorarium in excess of those amounts enumerated in the schedule in paragraph "b" of this subsection.

4. If no contributions have been accepted nor any disbursements made or indebtedness incurred during that reporting period, the treasurer of the committee shall file a disclosure statement which shows only the amount of cash on hand at the beginning of the reporting period.

5. A committee shall not dissolve until all loans, debts and obligations are paid, forgiven or transferred and the remaining money in the account is distributed according to the organization statement. If a loan is transferred or forgiven, the amount of the transferred or forgiven loan must be reported as an in kind contribution and deducted from the loans payable balance on the disclosure form. A statutory political committee is prohibited from dissolving, but may be placed in an inactive status upon the approval of the commission. Inactive status may be requested for a statutory political committee when no officers exist and the statutory political committee has ceased to function. The request shall be made by the previous treasurer or chairperson of the committee and by the appropriate state statutory political committee. A statutory political committee granted inactive status shall not solicit or expend funds in its name until the committee reorganizes and fulfills the requirements of a political committee under this chapter.

6. A permanent organization temporarily engaging in activity which would qualify it as a political committee shall organize a political committee and shall keep the funds relating to that political activity segregated from its operating funds. The political committee shall file reports in accordance with this chapter. When the permanent organization ceases to be involved in the political activity, it shall dissolve the political committee.

(83 Acts, ch 139, § 4, 5, 6, 7, 8, 9, 14) SF 457

Effective January 1, 1984

Subsection 1 amended, NEW paragraphs b and c added

Subsection 3, paragraph b, subparagraphs (4) and (6) amended

Subsection 3, paragraphs d, e and g amended

Subsection 5 amended

56.10 Duties of commission. The commission shall:

1. Review the contents of all disclosure reports and other statements filed with the commission and promptly advise each committee of errors found. The commission may verify information contained in the reports with other parties to assure accurate disclosure. The commission may, upon its own motion, initiate action and conduct a hearing under section 56.11, subsections 1 and 2. The commission may require the county commissioner to file summary reports with it periodically.

2. Prepare and publish a manual setting forth examples of approved uniform systems of accounts for use by persons required to file statements and reports by this chapter.

3. Assure that the statements and reports which have been filed in accordance with this chapter are available for public inspection and copying during the regular office hours of the commission and county commissioners.

4. Adopt rules pursuant to chapter 17A and levy civil penalties to carry out this

chapter. The rules shall provide that the candidate, or the treasurer of a candidate's committee, or the chairperson or treasurer of a political committee, is responsible for filing disclosure reports as required by this chapter, and shall receive notice from the commission if the committee has failed to file a disclosure report at the time required by this chapter. A candidate, or treasurer of a candidate's committee, or chairperson or treasurer of a political committee, may be subject to a civil penalty for failure to file a disclosure report required by this chapter if the report has not been filed when required by section 56.6, subsection 1.

5. Determine, in case of dispute, at what time a person has become a candidate.

(83 Acts, ch 139, § 10, 11, 14) SF 457

Effective January 1, 1984

Subsections 1 and 4 amended

56.18 Checkoff — income tax.

1. Any person whose state income tax liability for any taxable year is one dollar or more may direct that one dollar of such liability be paid over to the Iowa election campaign fund when submitting his or her state income tax return to the department of revenue. In the case of a joint return of husband and wife having a state income tax liability of two dollars or more, each spouse may direct that one dollar be paid to the fund. The director of revenue shall revise the income tax form to provide spaces on the face of the tax return and immediately above the signature lines which the taxpayer may use to designate that contributions made under this section be credited to a specified political party as defined by section 43.2, or to the Iowa election campaign fund as a contribution to be shared by all such political parties in the manner prescribed by section 56.19. The form shall inform the taxpayer of the consequences of the choices provided under this section, but this information may be contained in a footnote or other suitable form if the director of revenue finds it is not feasible to place the information immediately above the signature line.

2. A person who directs that funds be paid over under subsection 1 to a specified political party or to be shared by political parties may direct that an additional two dollars be paid over to the choice made by that person in subsection 1. The additional two dollars shall not be paid over from the person's tax liability but shall first be subtracted from any refund due on the return. If no refund or an insufficient refund is due on the return, the tax liability of the person shall be increased by the balance of the additional two dollars. In the case of a joint return of husband and wife, each spouse may direct that an additional two dollars be paid over to the choice made by that person in subsection 1.

3. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional two dollars designated by each taxpayer, the amount designated shall be reduced to the amount of refund or the amount remitted with the return that is greater than the taxes due under division II of chapter 422.

The action taken by a person for the checkoff is irrevocable.

However, before a checkoff pursuant to subsection 2 of the section shall be permitted, all liabilities on the books of the department of revenue, accounts identified as owing under section 421.17 and the checkoff permitted under section 107.16 shall be satisfied.

(83 Acts, ch 176, § 8, 11) SF 545

Retrospective to tax years beginning on or after January 1, 1983

Amended; NEW subsections 2 and 3

56.19 Fund created. The "Iowa election campaign fund" is created within the office of the treasurer of state. The fund shall consist of funds paid by persons as provided in section 56.18. The treasurer of state shall maintain within the fund a separate account for each political party as defined in section 43.2. The director of revenue shall remit funds collected as provided in section 56.18 to the treasurer of state who shall deposit such funds in the appropriate account within the Iowa election campaign fund. All contributions directed to the Iowa election campaign

fund by taxpayers who do not designate any one political party to receive their contributions shall be divided by the director of revenue equally among each account currently maintained in the fund. However, at any time when more than two accounts are being maintained within the fund contributions to the fund by taxpayers who do not designate any one political party to receive their contributions shall be divided among the accounts in the same proportion as the number of qualified electors declaring affiliation with each political party for which an account is maintained bears to the total number of qualified electors who have declared an affiliation with a political party. Any interest income received by the treasurer of state from investment of moneys deposited in the fund shall be deposited in the Iowa election campaign fund. Such funds shall be subject to payment to the chairperson of the specified political party by the state comptroller in the manner provided by section 56.22.

(83 Acts, ch 176, § 9) SF 545
Amended

56.28 Candidate's committee. Each candidate for public office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of two hundred fifty dollars in a calendar year.

(83 Acts, ch 139, § 12, 14) SF 457
Effective January 1, 1984
Amended

56.29 Insurance, savings and loan and banking corporations restrictions.

1. Except as provided in subsection 3, it is unlawful for an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state or any other state, territory, or foreign country, whether for profit or not, or an officer, agent or representative acting for such insurance company, savings and loan association, bank, credit union, or corporation, to contribute any money, property, labor, or thing of value, directly or indirectly, to a committee, or for the purpose of influencing the vote of an elector, except that such resources may be so expended in connection with a utility franchise election held pursuant to section 364.2, subsection 4, or a ballot issue. All such expenditures are subject to the disclosure requirements of this chapter.

2. Except as provided in subsection 3, it is unlawful for a member of a committee, or its employee or representative, except a ballot issue committee, or for a candidate for office or the representative of the candidate, to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state or any other state, territory, or foreign country, whether for profit or not, or its officer, agent, or representative, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, or corporation for campaign expenses, or for the purpose of influencing the vote of an elector. This section does not restrain or abridge the freedom of the press or prohibit the consideration and discussion in the press of candidacies, nominations, public officers, or public questions.

3. It is lawful for an insurance company, savings and loan association, bank, credit union, and corporation organized pursuant to the laws of this state or any other state or territory, whether or not for profit, and for their officers, agents and representatives, to use the money, property, labor, or any other thing of value of the entity for the purposes of soliciting its stockholders, administrative officers and members for contributions to a committee sponsored by that entity and of financing the administration of a committee sponsored by that entity. The entity's employees to whom the foregoing authority does not extend may voluntarily contribute to such a committee but shall not be solicited for contributions. All contributions made

under this subsection are subject to the disclosure requirements of this chapter. A committee member, committee employee, committee representative, candidate or representative referred to in subsection 2 lawfully may solicit, request, and receive money, property and other things of value from a committee sponsored by an insurance company, savings and loan association, bank, credit union, or corporation as permitted by this subsection.

4. The restrictions imposed by this section relative to making, soliciting or receiving contributions shall not apply to a nonprofit corporation or organization which uses those contributions to encourage registration of voters and participation in the political process, or to publicize public issues, or both, but does not use any part of those contributions to endorse or oppose any candidate for public office or support or oppose ballot issues.

5. Any person convicted of a violation of any of the provisions of this section shall be guilty of a serious misdemeanor.

(83 Acts, ch 139, § 13, 14) SF 457

Effective January 1, 1984

Subsections 1, 2 and 3 amended

CHAPTER 64

OFFICIAL AND PRIVATE BONDS

64.6 State officers — amount of bonds. Unless covered by a higher limit blanket bond purchased as provided in section 18.165, subsection 1, paragraph "b", state officers shall give bonds, the premiums being paid by the state, in an amount as follows:

1. Secretary of state, auditor of state, attorney general, clerk of the supreme court, not less than ten thousand dollars.
2. Treasurer of state, not less than three hundred thousand dollars.
3. The commissioner and the directors of divisions of the department of human services in control of state institutions, twenty-five thousand dollars.
4. Each treasurer of a state institution under the control of the state board of regents shall furnish a surety bond, the amount thereof to be determined by the said board.
5. Commissioner of public health, secretary of agriculture, and each Iowa state commerce commissioner, not less than five thousand dollars.
6. Superintendent of public instruction, not less than two thousand dollars.
7. Superintendent of public buildings and grounds, such amount as the executive council may fix.
8. Commissioner of insurance, fifty thousand dollars.
9. Superintendent of banking, one hundred thousand dollars.
10. State fire marshal, five thousand dollars.
11. Labor commissioner, two thousand dollars.
12. Deputy labor commissioner, one thousand dollars.
13. Members state conservation commission, five thousand dollars.
14. State conservation director, ten thousand dollars.
15. Officers appointed by state conservation commission, one thousand dollars.
16. Secretary of executive council, such amount as the executive council may fix.
17. State librarian, five thousand dollars.
18. Law librarian, three thousand dollars.
19. Executive director of the state historical department, one thousand dollars.
20. Superintendent of printing, five thousand dollars.
21. Industrial commissioner, one thousand dollars.
22. Members state transportation commission, ten thousand dollars.
23. All other public officers, in the amount provided by law, or as fixed under section 64.7.

24. Judicial magistrates, five thousand dollars.

25. Clerks of the district court and first deputy clerks, ten thousand dollars.

The state shall pay the reasonable costs of bonds required by this section.

(83 Acts, ch 14, § 2) SF 158

Unnumbered paragraph 1 amended

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

(83 Acts, ch 186, § 10027, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

NEW subsection 25

64.8 Bonds of county officers. The bonds of members of the boards of supervisors, county attorneys, recorders, auditors, sheriffs and assessors shall each be in a penal sum of not less than ten thousand dollars per annum.

(83 Acts, ch 186, § 10028, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

64.11 Expense of bonds paid by county. If a county treasurer, county attorney, recorder, auditor, sheriff, medical examiner, member of the soldiers relief commission, member of the board of supervisors, engineer, steward or matron elects to furnish a bond with any association or incorporation as surety as provided in this chapter, the reasonable cost of the bond shall be paid by the county where the bond is filed.

(83 Acts, ch 186, § 10029, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

64.19 Approval of bonds. Bonds shall be approved:

1. By the governor, in case of state and district officers, elective or appointive.
2. By the board of supervisors, in case of county officers, township clerks, and assessors.
3. By a judge or the clerk of the district court of the county in question, in case of members of the board of supervisors.
4. By the township clerk, in case of other township officers.
5. By the council, or as provided by ordinance in case of city officers.
6. By the state court administrator in case of district court clerks and first deputy clerks.

(83 Acts, ch 186, § 10030, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

NEW subsection 6

64.23 Custody of bond. The bonds and official oaths of public officers shall, after approval and proper record, be filed:

1. For all state officers, elective or appointive, except those of the secretary of state and judicial magistrates, with the secretary of state. Bonds and official oaths of judicial magistrates and court personnel shall be filed in the office of the state court administrator.
2. For the secretary of state, with the state auditor.
3. For county and township officers, except those of the county auditor, with the county auditor.
4. For county auditor, with the county treasurer.
5. For members of the board of supervisors, with the clerk of the district court.
6. For officers of cities, and officers not otherwise provided for, in the office of the officer or clerk of the body approving the bond, or in cities, as otherwise provided by ordinance.

(83 Acts, ch 186, § 10031, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 1 amended

CHAPTER 66

REMOVAL FROM OFFICE

66.19 Temporary officer. Upon a suspension, the board or person authorized to fill a vacancy in the office shall temporarily fill the office by appointment. In case of a suspension of a sheriff, the district court may designate an acting sheriff until a temporary sheriff is appointed. Orders of suspension and temporary appointment of county and township officers shall be certified to the county auditor for entry in the election book; those of city officers, certified to the clerk and entered upon the records; in case of other officers, to the person or body making the original appointment.

(83 Acts, ch 186, § 10032, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

66.23 Effect of dismissal. If the petition for removal is dismissed, the defendant shall be reimbursed for the reasonable and necessary expenses incurred by the defendant in making a defense, including reasonable attorney's fees, as determined by the court. If the petition for removal is filed by the attorney general, the state shall pay the expenses. If the petition for removal is filed by the county attorney or special prosecutor, the expenses shall be paid by the political subdivision of the state represented by the county attorney or special prosecutor. The payment shall be made out of any funds in the state treasury not otherwise appropriated, or out of the county treasury, or the general fund of the city or other subdivision of the state, as the case may be.

(83 Acts, ch 123, § 47, 209) HF 628

Amended

66.25 Expense of judge and reporter. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

CHAPTER 68

IMPEACHMENT

68.1 Impeachment defined. An impeachment is a written accusation against the governor, or a judicial officer, or other state officer, by the house of representatives before the senate, of a misdemeanor or malfeasance in office.

(83 Acts, ch 186, § 10033, 10201) SF 495

Amended

CHAPTER 68A

EXAMINATION OF PUBLIC RECORDS

68A.7 Confidential records. The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release information:

1. Personal information in records regarding a student, prospective student, or former student of the school corporation or educational institution maintaining such records.
2. Hospital records and medical records of the condition, diagnosis, care, or treatment of a patient or former patient, including outpatient.
3. Trade secrets which are recognized and protected as such by law.
4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.

5. Peace officers' investigative reports, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.

6. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.

7. Appraisals or appraisal information concerning the purchase of real or personal property for public purposes, prior to public announcement of a project.

8. Iowa development commission information on an industrial prospect with which the commission is currently negotiating.

9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests shall be public records.

10. Personal information in confidential personnel records of the military department of the state.

11. Personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors and school districts.

12. Financial statements submitted to the Iowa state commerce commission pursuant to chapter 542 or chapter 543, by or on behalf of a licensed grain dealer or warehouseman or by an applicant for a grain dealer license or warehouse license.

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item from the library.

14. The material of a library, museum or archive which has been contributed by a private person to the extent of any limitation that is a condition of the contribution.

15. Information concerning the procedures to be used to control disturbances at adult correctional institutions. Such information shall also be exempt from public inspection under section 17A.3. As used in this subsection disturbance means a riot or a condition that can reasonably be expected to cause a riot.

16. Information in a report to the state department of health, to a local board of health, or to a local health department, which identifies a person infected with a reportable disease.

17. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public bonds or obligations and a state or federal agency shall have the right of access to the records.

(83 Acts, ch 90, § 9) HF 377

NEW subsection 17

CHAPTER 68B

CONFLICTS OF INTEREST OF PUBLIC OFFICERS AND EMPLOYEES

68B.2 Definitions. When used in this chapter, unless the context otherwise requires:

1. "*Compensation*" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.

2. "*Legislative employee*" means any full-time officer or employee of the general assembly but shall not include members of the general assembly.

3. "*Member of the general assembly*" means any individual duly elected to the senate or the house of representatives of the state of Iowa.

4. "*Regulatory agency*" means department of agriculture, industrial commissioner, bureau of labor, occupational safety and health review commission, department of job service, department of banking, insurance department of Iowa, state depart-

ment of health, department of public safety, department of public instruction, state board of regents, department of human services, department of revenue, Iowa state commerce commission, Iowa beer and liquor control department, board of pharmacy examiners, state conservation commission, state department of transportation, Iowa state civil rights commission, department of soil conservation, department of public defense, and department of water, air and waste management.

5. "*Employee*" means any full-time, salaried employee of the state of Iowa and does not include part-time employees or independent contractors. Employee shall include but not be limited to all clerical personnel.

6. "*Official*" means any officer of the state of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time. Official shall include but not be limited to all supervisory personnel and members of state agencies and shall not include members of the general assembly or legislative employees.

7. "*State agency*" means any state department or division, board, commission, or bureau of the state including regulatory agencies.

8. "*Candidate*" means a candidate as defined in section 56.2 for a statewide office or the general assembly.

9. "*Gift*" means a rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, or anything else of value in return for which legal consideration of equal or greater value is not given and received. However, "gift" does not mean any of the following:

a. Anything received by a donee whose official action or lack of official action will potentially have no material effect, distinguishable from material effects on the public generally, on the interests of the donor.

b. Campaign contributions.

c. Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents, or periodicals.

d. Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

e. Anything which is donated within thirty days after its receipt to a public body or to a bona fide educational or charitable organization, without the donation being claimed at any time as a charitable contribution for tax purposes.

f. An inheritance.

g. Anything available to or distributed to the public generally without regard to official status of the recipient.

h. Reimbursement for or payment of actual expenses incurred for public speaking engagements or other formal public appearances.

10. "*Local official*" and "*local employee*" mean an official or employee of the political subdivisions of this state.

11. "*Public disclosure*" means a written report filed by the fifteenth day of the month following the month in which a gift is received as required by this chapter or required by rules adopted pursuant to this chapter.

12. "*Immediate family members*" means the spouse or minor children of a person required to file reports pursuant to this chapter or required by the rules adopted or executive order issued pursuant to this chapter.

Whenever the terms "legislative employee", "member of the general assembly", "employee", or "official" are used in this chapter, the term shall be interpreted to include any firm or association of which any of the above is a member or partner and any corporation of which any of the above holds ten percent or more of the stock either directly or indirectly. The use of the above terms shall also include wives and unemancipated minor children.

CHAPTER 69

VACANCIES IN OFFICE — REMOVAL FOR NONATTENDANCE — TERMS OF CONFIRMED APPOINTEES

69.3 Possession of office. When a vacancy occurs in a public office, possession shall be taken of the office room, the books, papers, and all things pertaining to the office, to be held until the qualification of a successor, as follows: Of the office of the county auditor, by the county treasurer; of the county treasurer, by the county auditor; of any of the state officers, by the governor, or, in the absence or inability of the governor at the time of the occurrence, as follows: Of the secretary of state, by the treasurer of state; of the auditor of state, by the secretary of state; of the treasurer of state, by the secretary of state and auditor of state, who shall make an inventory of the money and warrants in the office, sign them, and transmit the inventory to the governor; and the secretary of state shall take the keys of the safe and desks, after depositing the books, papers, money and warrants in them, and the auditor of state shall take the key to the office room.

(83 Acts, ch 186, § 10034, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

69.8 Vacancies — how filled. Vacancies shall be filled by the officer or board named, and in the manner, and under the conditions, following:

1. *United States senator.* In the office of United States senator, when the vacancy occurs when the senate of the United States is in session, or when such senate will convene prior to the next general election, by the governor. An appointment made under this subsection shall be for the period until the vacancy is filled by election pursuant to law.

2. *State offices.* In all state offices, judges of courts of record, officers, trustees, inspectors, and members of all boards or commissions, and all persons filling any position of trust or profit in the state, by the governor, except when some other method is specially provided. An appointment made under this subsection to a state office subject to section 69.13, subsection 1, shall be for the period until the vacancy is filled by election pursuant to law.

3. *County offices.* In county offices, by the board of supervisors.

4. *Board of supervisors.* In the membership of the board of supervisors, by the treasurer, auditor, and recorder.

5. *Township offices.* In township offices, including trustees, by the trustees, but where the offices of the three trustees are all vacant, the county board of supervisors shall have the power to either instruct the county auditor to fill the vacancies or adopt a resolution stating that the board will exercise all powers and duties assigned by law to the trustees of the township in which such vacancies exist, until such time as the vacancies may be filled by election.

(83 Acts, ch 186, § 10035—10037, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsections 3 and 6 struck and subsequent subsections renumbered

Subsection 4 (formerly 5) amended

CHAPTER 74

PUBLIC OBLIGATIONS NOT PAID FOR WANT OF FUNDS

74.1 Applicability.

1. This chapter applies to all warrants which are legally drawn on a public treasury, including the treasury of a city or county, and which, when presented for payment, are not paid for want of funds.

2. This chapter also applies when a municipality as defined in section 24.2, or

a city or county determines that there are not or will not be sufficient funds on hand to pay the legal obligations of a fund. A municipality, city, or county may provide for the payment of such an obligation by drawing an anticipatory warrant payable to a bank or other business entity authorized by law to loan money in an amount legally available and believed to be sufficient to cover the anticipated deficiency. The duties imposed on the treasurer by this chapter may be assigned by a city council to another city officer.

3. The procedures of this chapter also apply to the issuance of anticipatory warrants by the state under section 19.8.

4. This chapter also applies to anticipatory warrants, improvement certificates, anticipatory certificates or similar obligations payable from special assessments against benefited properties, or payable from charges, fees or other operating income from a publicly owned enterprise or utility.

(83 Acts, ch 123, § 48, 209) HF 628

Subsections 1 and 2 amended

(83 Acts, ch 90, § 10) HF 377

Subsection 4 amended

CHAPTER 74A

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.3 Interest rates for public obligations. Except as otherwise provided by law, the rates of interest on obligations issued by this state, or by a county, school district, city special improvement district, or any other governmental body or agency are as follows:

1. General obligation bonds, warrants, or other evidences of indebtedness which are payable from general taxation or from the state's sinking fund for public deposits may bear interest at a rate to be set by the issuing governmental body or agency.

2. Revenue bonds, warrants, pledge orders or other obligations, the principal and interest of which are to be paid solely from the revenue derived from the operations of the publicly owned enterprise or utility for which the bonds or obligations are issued, may bear interest at a rate to be set by the issuing governmental body or agency.

3. Special assessment bonds, certificates, warrants or other obligations, the principal and interest of which are payable from special assessments levied against benefited property may bear interest at a rate to be set by the issuing governmental body or agency.

The interest rates authorized by this section to be set by the issuing governmental body or agency shall be set in each instance by the governing body which, in accordance with applicable provisions of law then in effect, authorizes the issuance of the bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness.

(83 Acts, ch 90, § 11) HF 377

NEW unnumbered paragraph 2 (last paragraph)

74A.8 Interest rate on issue date. An interest rate limit, provision that no interest rate limit exists, or authorization to set interest rates, as provided by this chapter or any other law, applies to all bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness issued and delivered after the effective date of the provision, regardless of whether the bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness were authorized to be issued pursuant to election, public hearing, or otherwise before the effective date of the provision. This section operates both retroactively and prospectively.

(83 Acts, ch 90, § 12) HF 377

NEW section

CHAPTER 75

AUTHORIZATION AND SALE OF PUBLIC BONDS

75.2 Notice of sale. When public bonds are offered for sale, the official or officials in charge of the bond issue shall, by advertisement published at least twice at unspecified intervals one of which shall be not less than four nor more than twenty days before the sale in a newspaper located in the county or a county contiguous to the place of sale, give notice of the time and place of sale of the bonds, the amount to be offered for sale, and any further information which the official or officials deem pertinent.

(83 Acts, ch 90, § 13) HF 377

Amended

75.3 Sealed and open bids. Sealed bids may be received at any time prior to the calling for open bids, if open bids are provided for in the notice of sale. After the sealed bids are all filed, the official or officials shall call for open bids, if open bids are provided for in the notice of sale. After all of the open bids have been received the substance of the best open bid shall be noted in the minutes. If open bids are not permitted in the notice of sale, sealed bids may be received until it is announced that all sealed bids shall be opened. The official or officials shall then open any sealed bids that have been filed and they shall note in the minutes the substance of the best sealed bid.

(83 Acts, ch 90, § 14) HF 377

Amended

75.5 Selling price. All public bonds issued under this chapter may be sold at a price not less than ninety-eight percent of par, plus accrued interest from the date of the bonds to the date of delivery of the bonds.

(83 Acts, ch 90, § 15) HF 377

Amended

75.9 Exchange of bonds. This chapter does not prevent the exchange of bonds for legal indebtedness evidenced by bonds, warrants, judgments, or otherwise as provided by law. Bonds shall not be exchanged for notes issued pursuant to section 76.13 in anticipation of the issuance of bonds.

(83 Acts, ch 90, § 16) HF 377

Amended

75.10 Denominations of bonds. Notwithstanding any contrary provision in the Code, public bonds may be in one or more denominations as provided by the proceedings of the governing body authorizing their issuance.

(83 Acts, ch 90, § 17) HF 377

Struck and rewritten

CHAPTER 76

MATURITY AND PAYMENT OF BONDS

76.2 Mandatory levy. The governing authority of these political subdivisions before issuing bonds shall, by resolution, provide for the assessment of an annual levy upon all the taxable property in the political subdivision sufficient to pay the interest and principal of the bonds within a period named not exceeding twenty years. A certified copy of this resolution shall be filed with the county auditor or the auditors of the counties in which the political subdivision is located; and the filing shall make it a duty of the auditors to enter annually this levy for collection from the taxable property within the boundaries of the political subdivision until funds

are realized to pay the bonds in full. The levy shall continue to be made against property that is severed from the political subdivision after the filing of the resolution until funds are realized to pay the bonds in full.

If the resolution is filed prior to April 1 the annual levy shall begin with the tax levy for collection commencing July 1 of that year. If the resolution is filed after April 1, the annual levy shall begin with the tax levy for collection in the next succeeding fiscal year. However, the governing authority of a political subdivision may adjust a levy of taxes made under this section for the purpose of adjusting the annual levies and collections for property severed from the political subdivision, subject to the approval of the state comptroller.

If the resolution is so filed prior to April 1, said annual levy shall begin with the tax levy of the year of filing. If the resolution is filed after April 1 in any year, such levy shall begin with the levy of the fiscal year succeeding the year of the filing of such resolution. However, the governing authority of a political subdivision may adjust any levy of taxes made under the provisions of this section, for the purpose of adjusting the annual levies and collections in accordance with the provisions of this Act,* subject to the approval of the state comptroller.

(83 Acts, ch 188, § 1) HF 643

*64GA, ch 1020

Unnumbered paragraph 1 amended

NEW unnumbered paragraph 2

76.3 Tax limitations. Tax limitations in any law or proposition for the issuance of bonds or obligations, including any law or proposition for the issuance of bonds or obligations in anticipation of levies or collections of taxes or both, shall be based on the latest equalized actual valuation then existing and shall only restrict the amount of bonds or obligations which may be issued. For the sole purpose of computing the amount of bonds which may be issued as a result of the application of a tax limitation, all interest on the bonds or obligations in excess of that accruing in the first twelve months may be excluded from the first annual levy of taxes, so that the need for including more than one year's interest in the first annual levy of taxes to pay the bonds or obligations and interest does not operate to further restrict the amount of bonds or obligations which may be issued, and in certifying the annual levies to the county auditor or auditors the first annual levy of taxes shall be sufficient to pay all principal of and interest on the bonds or obligations becoming due prior to the next succeeding annual levy and the full amount of the first annual levy shall be entered for collection by the auditor or auditors, as provided in this chapter.

(83 Acts, ch 90, § 7) HF 377

Amended

76.6 Place of payment. The principal and interest of all public bonds or obligations of a public corporation in this state are payable at the office of the treasurer or public official charged with the duty of making payment, unless the proceedings of the governing body authorizing the issuance of the public bonds or obligations provide that the public bonds or obligations and interest on the public bonds or obligations are payable at one or more banks or trust companies within or without the state of Iowa, or as otherwise provided by chapter 419, or by mail, wire transfer, or similar means.

(83 Acts, ch 90, § 8) HF 377

Amended

76.10 Registration of public bonds. Notwithstanding any other provision in the Code:

1. All public bonds or obligations issued before or after July 1, 1983 may be in registered form. An issuer of public bonds or obligations may designate for a term as agreed upon, one or more persons, corporations, partnerships or other associations located within or without the state to serve as trustee, transfer agent, registrar,

depository or paying or other agent in connection with the public bonds or obligations and to carry out services and functions which are customary in such capacities or convenient or necessary to comply with the intent and provisions of this chapter.

2. An issuer of public bonds or obligations may provide for the immobilization of the bonds through the designation of a bond depository or through a book-entry system of registration.

3. Any designated trustee, transfer agent, registrar, depository or paying or other agent may serve in multiple capacities with respect to an issue of public bonds or obligations.

4. Public bonds or obligations or certificates of ownership of the public bonds or obligations may be issued in any form or pursuant to any system necessary to be in compliance with standards issued from time to time by the municipal securities rule-making board of the United States, the American national standards institute, any other securities industry standard, or the requirements of section 103 of the Internal Revenue Code of 1954.

5. Registration or immobilization of a public bond or obligation does not disqualify it as a lawful investment for depository institutions, trustees, public bodies, or other investors regulated by law.

(83 Acts, ch 90, § 2) HF 377

NEW section

76.11 Confidentiality of bond holders — exceptions. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the bonds are confidential records entitled to protection under section 68A.7, subsection 17. However, the issuer of the bonds or a state or federal agency may obtain information as necessary.

(83 Acts, ch 90, § 3) HF 377

NEW section

76.12 Reproduction and validity of signatures.

1. A provision requiring that public bonds or obligations or certificates of ownership of public bonds or obligations issued by a public entity be executed or signed by particular public officers permits the signatures to be affixed by printing or other mechanical means. However, each instrument shall bear at least one original and manual signature, which may be the signature of any officer designated by law to execute the instrument or the signature of a registrar or trustee authenticating the instrument.

2. Public bonds and obligations are valid and binding if they bear the signature of the officials in office on the date of execution of the bonds, notwithstanding that any or all of the persons whose signatures appear on the public bonds or obligations have ceased to hold the office before the delivery of the public bonds or obligations. Reprinted or reissued bonds are valid and binding if they bear facsimilies of the signatures of either the public officials who executed the original issue of the bonds or the officials in office at the time of execution of the reprinted or reissued bonds.

(83 Acts, ch 90, § 4) HF 377

NEW section

76.13 Interim financing.

1. A public body authorized to issue bonds may issue project notes in anticipation of the receipt of any of the following:

a. Proceeds from the issuance of public bonds or obligations previously authorized.

b. Proceeds to be received pursuant to law or agreement from any state or federal agency.

c. Income or revenues from sources to be received and expended for the project during the project construction or acquisition period.

d. Any combination of paragraphs "a" through "c".

2. Notes shall be issued in the form and manner provided in a resolution of the governing body of the issuer. The resolution may set forth and appropriate the moneys anticipated by the notes.

3. The resolution may provide that to the extent issued in anticipation of public bonds or obligations, notes shall be paid from the proceeds of the issuance of public bonds or obligations. To the extent issued in anticipation of bonds, note proceeds shall be expended only for the purposes for which the bond proceeds may be expended.

4. Notes shall not be issued in anticipation of public bonds or obligations in an amount greater than the authorized amount of the public bonds or obligations and moneys appropriated for the same purposes.

5. a. Notes may be sold at public or private sale and bear interest at rates set by the governing body of the issuer at the time of their issuance notwithstanding chapter 74A.

b. The authority of a public body to issue project notes under this section is in addition to any other authority of the public body to issue other obligations as otherwise provided by law.

(83 Acts, ch 90, § 5) HF 377

NEW section

76.14 Definition. As used in this chapter, unless the context otherwise requires, "public bond or obligation" means any obligation issued by or on behalf of the state, an agency of the state, or a political subdivision of the state.

(83 Acts, ch 90, § 6) HF 377

NEW section

CHAPTER 79

SALARIES, FEES, MILEAGE, EXPENSES IN GENERAL AND DISABILITY PROGRAM FOR STATE EMPLOYEES

79.12 Warrants prohibited. A warrant requiring a peace officer to go beyond the boundaries of the state at public expense shall not be issued except with the approval of a district judge.

(83 Acts, ch 186, § 10038, 10201) SF 495

Amended

79.17 Additional payroll deductions.

1. For the purposes of purchasing insurance and at the request of five hundred or more state officers or employees, the state officer in charge of the payroll system shall deduct from the wages or salaries of the state officers or employees an amount specified by each of the officers or employees for payment to any insurance company authorized to do business in this state if the following conditions are met:

a. The request for the payroll deduction is made in writing to the officer in charge of the payroll system.

b. The pay period during which the deduction is made, the frequency, and the amount of the deduction are compatible with the payroll system.

c. The insurance coverage is not provided by the state.

2. The moneys deducted under this section shall be paid promptly to the insurance company designated by the state officers or employees. The deduction may be made even though the compensation paid to an officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full discharge of claims and demands for services rendered by the officer or employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the state officer in charge of the payroll system.

(83 Acts, ch 196, § 3, 12) SF 530

Effective January 1, 1984

NEW section

79.18 Compensation based on comparable worth. It is the policy of this state that a state department, board, commission, or agency shall not discriminate in compensation for work of comparable worth between jobs held predominantly by women and jobs held predominantly by men. "Comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

(83 Acts, ch 170, § 1-4) HF 313

Effective July 1, 1984

Study to be made on compensation of merit system employees based on comparable worth

Not a limitation on ch 601A; to be construed liberally and in harmony with that chapter

NEW section

79.23 Credit for accrued sick leave.

Temporary provision for payment of life or health insurance premiums for certain public safety bargaining unit retirees; 83 Acts, ch 198, § 3 (SF 531)

CHAPTER 80

DEPARTMENT OF PUBLIC SAFETY

80.12 Attendance at short course. The commissioner of public safety is authorized to send members of the department of public safety to any course of instruction for peace officers, not exceeding a total of six weeks' length in any one year, given by the college of law of the state University of Iowa, or the course of instruction in public safety education given at Iowa State University of science and technology, and the members shall be considered on duty while in attendance. The legislative body in a county may authorize the attendance at such a course of any law enforcing officer under the jurisdiction of the county and may provide for the payment of the actual and necessary expenses of that person while in attendance.

(83 Acts, ch 123, § 49, 209) HF 628

Amended

80.25A Pari-mutuel enforcement. The commissioner of public safety shall direct the chief of the division of criminal investigation and bureau of identification to establish a subdivision for the purpose of enforcement of chapter 99D. The commissioner of public safety shall appoint or assign other agents to the division as necessary to enforce chapter 99D. All enforcement officers, assistants, and agents of the division are subject to section 80.15 except clerical workers.

(83 Acts, ch 187, § 30) SF 92

See Code editor's note at the end of this Supplement

NEW section

CHAPTER 80C

CRIMINAL AND JUVENILE JUSTICE PLANNING

80C.1 Criminal and juvenile justice planning agency created. The criminal and juvenile justice planning agency is a separate independent agency created in the office of the governor. The agency is responsible for coordinating criminal and juvenile justice activities in the state including planning, research, program implementation, and the administration of grants and other funds. The agency is under the direct supervision of the governor, and shall be responsible only to the governor or the general assembly. The governor shall appoint the executive director of the agency who shall serve at the pleasure of the governor. As used in this

section and sections 80C.2 to 80C.4, unless the context otherwise requires, "agency" means the criminal and juvenile justice planning agency created in this section.

(83 Acts, ch 145, § 1) SF 399

Amended

80C.2 Advisory council. The criminal and juvenile justice advisory council is created to advise the governor and legislature and direct the agency in the performance of its duties and to perform other duties as required by law. The council shall consist of eleven members. The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons who are either a county supervisor, county sheriff, a mayor, city chief of police or a county attorney.
2. Two persons shall represent the general public and shall not be employed in any law enforcement, judicial, or corrections capacity.
3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The commissioner of the department of human services, the commissioner of public safety, the attorney general and the chief justice of the supreme court shall each designate a person to serve on the council.

Members of the council shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Public members shall also receive forty dollars per diem. As used in this section and sections 80C.3 and 80C.4 unless the context otherwise requires "council" means the criminal and juvenile justice advisory council created in this section.

(83 Acts, ch 145, § 2) SF 399

Unnumbered paragraph 1 amended

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 2 amended

80C.5 Juvenile restitution program. Repealed by 83 Acts, ch 94, § 6. (HF 528)

See sec. 232A.5

CHAPTER 80D

RESERVE PEACE OFFICERS

80D.11 Employee — pay. While performing official duties, each reserve peace officer shall be considered an employee of the governing body which the officer represents and shall be paid a minimum of one dollar per year. The governing body of a city, county, or the state may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

(83 Acts, ch 101, § 3) SF 136

Amended

CHAPTER 85

WORKERS' COMPENSATION

85.1 To whom not applicable. Except as provided in subsection 5 of this section, this chapter shall not apply to:

1. Any employee engaged in any type of service in or about a private dwelling except that after July 1, 1974, this chapter shall apply to such persons who earn two hundred dollars or more from such employer for whom employed at the time of the injury during the thirteen consecutive weeks prior to the injury, provided said employee is not a regular member of the household. For purposes of this subsection

"member of the household" is defined to be the spouse of the employer or relatives of either the employer or spouse residing on the premises of the employer.

2. Persons whose employment is purely casual and not for the purpose of the employer's trade or business, except that after July 1, 1974, this chapter shall apply to such employees who earn two hundred dollars or more from such employer for whom employed at the time of the injury during the thirteen consecutive weeks prior to the injury.

3. Persons engaged in agriculture, insofar as injuries incurred by employees while engaged in agricultural pursuits or any operations immediately connected therewith whether on or off the premises of the employer, except:

a. This chapter applies to persons not specifically exempted by paragraph "b" of this subsection if at the time of injury the person is employed by an employer whose total cash payroll to one or more persons other than those exempted by paragraph "b" of this subsection amounted to two thousand five hundred dollars or more during the preceding calendar year.

b. The following persons or employees or groups of employees are specifically included within the exemption from coverage of this chapter provided by this subsection:

(1) The spouse of the employer, parents, brothers, sisters, children and stepchildren of either the employer or the spouse of the employer, and the spouses of the brothers, sisters, children, and stepchildren of either the employer or the spouse of the employer.

(2) The spouse of a partner of a partnership, the parents, brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, and the spouses of the brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, who are employed by the partnership and actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the partnership. For the purpose of this section, "partnership" includes partnerships, limited partnerships, and joint ventures.

(3) Officers of a family farm corporation, spouses of the officers, the parents, brothers, sisters, children and stepchildren of either the officers or the spouses of the officers, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or the spouses of the officers who are employed by the corporation, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and who are actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the corporation.

(4) A person engaged in agriculture as an owner of agricultural land, as a farm operator, or as a person engaged in agriculture who is exempt from coverage under this chapter by subsection 3, paragraph "b", subparagraph (1), (2), or (3), while exchanging labor with another owner of agricultural land, farm operator, or person engaged in agriculture who is exempt from coverage under this chapter by subsection 3, paragraph "b", subparagraph (1), (2), or (3), for the mutual benefit of all such persons.

4. Persons entitled to benefits pursuant to chapters 410 and 411.

5. The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, not to exceed four officers per corporation, if such an officer knowingly and voluntarily rejects workers' compensation coverage pursuant to section 87.22.

6. Employers may with respect to an employee or a classification of employees exempt from coverage provided by this chapter pursuant to subsection 1, 2, 3, 4, or 5, other than the employee or classification of employees with respect to whom a rule of liability or a method of compensation is established by the Congress of the United States, assume a liability for compensation imposed upon employers by this chapter,

for the benefit of employees within the coverage of this chapter, by the purchase of valid workers' compensation insurance specifically including the employee or classification of employees. The purchase of and acceptance by an employer of valid workers' compensation insurance applicable to the employee or classification of employees constitutes an assumption by the employer of liability without any further act on the part of the employer, but only with respect to the employee or classification of employees as are within the coverage of the workers' compensation insurance contract and only for the time period in which the insurance contract is in force. Upon an election of such coverage, the employee or classification of employees shall accept compensation in the manner provided by this chapter and the employer shall be relieved from any other liability for recovery of damage, or other compensation for injury.

(83 Acts, ch 36, § 1, 2, 8) SF 51

Amendments effective January 1, 1984

NEW subsection 5 and following subsection renumbered

Subsection 6 (formerly 5) amended

85.16 Willful injury — intoxication. No compensation under this chapter shall be allowed for an injury caused:

1. By the employee's willful intent to injure himself or to willfully injure another.
2. By the employee's intoxication, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, if the intoxication was a substantial factor in causing the injury.

3. By the willful act of a third party directed against the employee for reasons personal to such employee.

(83 Acts, ch 105, § 1) SF 423

Subsection 2 amended

85.22 Liability of others — subrogation. When an employee receives an injury or incurs an occupational disease or an occupational hearing loss for which compensation is payable under this chapter, chapter 85A or chapter 85B, and which injury or occupational disease or occupational hearing loss is caused under circumstances creating a legal liability against some person, other than his or her employer or any employee of such employer as provided in section 85.20 to pay damages, the employee, or the employee's dependent, or the trustee of such dependent, may take proceedings against the employer for compensation, and the employee or, in case of death, the employee's legal representative may also maintain an action against such third party for damages. When an injured employee or the employee's legal representative brings an action against such third party, a copy of the original notice shall be served upon the employer by the plaintiff, not less than ten days before the trial of the case, but a failure to give such notice shall not prejudice the rights of the employer, and the following rights and duties shall ensue:

1. If compensation is paid the employee or dependent or the trustee of such dependent under this chapter, the employer by whom the same was paid, or his insurer which paid it, shall be indemnified out of the recovery of damages to the extent of the payment so made, with legal interest, except for such attorney fees as may be allowed, by the district court, to the injured employee's or his personal representative's attorney, and shall have a lien on the claim for such recovery and the judgment thereon for the compensation for which he is liable. In order to continue and preserve the lien, the employer or insurer shall, within thirty days after receiving notice of such suit from the employee, file, in the office of the clerk of the court where the action is brought, notice of the lien.

2. In case the employee fails to bring such action within ninety days, or where a city or a city under special charter is such third party, within thirty days after written notice so to do given by the employer or his insurer, as the case may be, then

the employer or his insurer shall be subrogated to the rights of the employee to maintain the action against such third party, and may recover damages for the injury to the same extent that the employee might. In case of recovery, the court shall enter judgment for distribution of the proceeds thereof as follows:

a. A sum sufficient to repay the employer for the amount of compensation actually paid by him to that time.

b. A sum sufficient to pay the employer the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of compensation for which the employer is liable, but the sum is not a final adjudication of the future payments which the employee is entitled to receive and if the sum received by the employer is in excess of the amount required to pay the compensation, the excess shall be paid to the employee.

c. The balance, if any, shall be paid over to the employee.

3. Before a settlement shall become effective between an employee or an employer and such third party who is liable for the injury, it must be with the written consent of the employee, in case the settlement is between the employer or insurer and such third person; and the consent of the employer or insurer, in case the settlement is between the employee and such third party; or on refusal of consent, in either case, then upon the written approval of the industrial commissioner.

4. A written memorandum of any settlement, if made, shall be filed by the employer or insurance carrier in the office of the industrial commissioner.

5. For subrogation purposes hereunder, any payment made unto an injured employee, his guardian, parent, next friend, or legal representative, by or on behalf of any third party, his or its principal or agent liable for, connected with, or involved in causing an injury to such employee shall be considered as having been so paid as damages resulting from and because said injury was caused under circumstances creating a legal liability against said third party, whether such payment be made under a covenant not to sue, compromise settlement, denial of liability or otherwise.

6. When the state of Iowa has paid any compensation or benefits under the provisions of this chapter, the word "employer" as used in this section shall mean and include the state of Iowa.

(83 Acts, ch 105, § 2) SF 423

Subsection 2, paragraph b amended

85.26 Limitation of actions.

1. An original proceeding for benefits under this chapter or chapter 85A, 85B, or 86, shall not be maintained in any contested case unless the proceeding is commenced within two years from the date of the occurrence of the injury for which benefits are claimed or, if weekly compensation benefits are paid under section 86.13, within three years from the date of the last payment of weekly compensation benefits.

2. An award for payments or an agreement for settlement provided by section 86.13 for benefits under this chapter or chapter 85A or 85B, where the amount has not been commuted, may be reviewed upon commencement of reopening proceedings by the employer or the employee within three years from the date of the last payment of weekly benefits made under the award or agreement. If an award for payments or agreement for settlement as provided by section 86.13 for benefits under this chapter or chapter 85A or 85B has been made and the amount has not been commuted, or if a denial of liability is not filed with the industrial commissioner and notice of the denial is not mailed to the employee, on forms prescribed by the commissioner, within six months of the commencement of weekly compensation benefits, the commissioner may at any time upon proper application make a determination and appropriate order concerning the entitlement of an employee to benefits provided for in section 85.27. The failure to file a denial of liability does not constitute an admission of liability under this chapter or chapter 85A, 85B, or 86.

3. Notwithstanding the terms of chapter 17A, the filing with the industrial

commissioner of the original notice or petition for an original proceeding or an original notice or petition to reopen an award or agreement of settlement provided by section 86.13, for benefits under the workers' compensation or occupational disease law or the Iowa occupational hearing loss Act chapter 85B shall be the only Act constituting "commencement" for purposes of this statutory section.

4. No claim or proceedings for benefits shall be maintained by any person other than the injured employee, his or her dependent or his or her legal representative if entitled to benefits.

(83 Acts, ch 105, § 3) SF 423

Subsection 2 amended

85.35 Settlement in contested case. The parties to a contested case, or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under this chapter or chapter 85A, 85B or 86, providing for final disposition of the claim, provided that no final disposition affecting rights to future benefits may be had when the only dispute is the degree of disability resulting from an injury for which an award for payments or agreement for settlement under section 86.13 has been made. The settlement shall be in writing and submitted to the industrial commissioner for approval. The settlement shall not be approved unless evidence of a bona fide dispute exists concerning any of the following:

1. The claimed injury arose out of or in the course of the employment.
2. The injured employee gave notice under section 85.23.
3. Whether or not the statutes of limitations as provided in section 85.26 have run. When the issue involved is whether or not the statute of limitations of section 85.26, subsection 2, has run, the final disposition shall pertain to the right to weekly compensation unless otherwise provided for in subsection 7 of this section.
4. The injury was caused by the employee's willful intent to injure himself or to willfully injure another.
5. Intoxication, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, was a substantial factor in causing the employee's injury.
6. The injury was caused by the willful act of a third party directed against the employee for reasons personal to such employee.
7. This chapter or chapter 85A, 85B, 86 or 87 applies to the party making the claim.

Approval by the industrial commissioner shall be binding on the parties and shall not be construed as an original proceeding. Notwithstanding any provisions of this chapter and chapters 85A, 85B, 86 and 87, an approved settlement shall constitute a final bar to any further rights arising under this chapter and chapters 85A, 85B, 86 and 87. Such payment shall not be construed as the payment of weekly compensation.

(83 Acts, ch 105, § 4) SF 423

Subsection 5 amended

85.38 Reduction of obligations of employer.

1. *Contributions or donations.* The compensation herein provided shall be the measure of liability which the employer has assumed for injuries or death that may occur to employees in his employment subject to the provisions of this chapter, and it shall not be in anywise reduced by contribution from employees or donations from any source.

2. *Credit for benefits paid under group plans.* In the event the disabled employee shall receive any benefits, including medical, surgical or hospital benefits, under any group plan covering nonoccupational disabilities contributed to wholly or partially by the employer, which benefits should not have been paid or payable if

any rights of recovery existed under this chapter, chapter 85A or chapter 85B, then such amounts so paid to said employee from any such group plan shall be credited to or against any compensation payments, including medical, surgical or hospital, made or to be made under this chapter, chapter 85A or chapter 85B. Such amounts so credited shall be deducted from the payments made under these chapters. Any nonoccupational plan shall be reimbursed in the amount so deducted. This section shall not apply to payments made under any group plan which would have been payable even though there was an injury under this chapter or an occupational disease under chapter 85A or an occupational hearing loss under chapter 85B. Any employer receiving such credit shall keep such employee safe and harmless from any and all claims or liabilities that may be made against them by reason of having received such payments only to the extent of such credit.

3. *Lien for hospital and medical services under chapter 249A.* In the event any hospital or medical services as defined in section 85.27 are paid by the state department of human services on behalf of an employee who is entitled to such benefits under the provisions of this chapter or chapter 85A or 85B, a lien shall exist as respects the right of such employee to benefits as described in section 85.27.

(83 Acts, ch 153, § 1) SF 541

NEW subsection 3

(83 Acts, ch 96, § 160) SF 464

Subsection 3 amended

85.49 Trustees for incompetent. When a minor or mentally incompetent dependent is entitled to weekly benefits under this chapter, chapter 85A or chapter 85B, payment shall be made to the clerk of the district court for the county in which the injury occurred, who shall act as trustee, and the money coming into the clerk's hands shall be expended for the use and benefit of the person entitled to it under the direction and orders of a district judge. The clerk of the district court, as trustee, shall qualify and give bond in an amount as the district judge directs, which may be increased or diminished from time to time. If the domicile or residence of the minor or mentally incompetent dependent is within the state but in a county other than that in which the injury to the employee occurred the industrial commissioner may order and direct that weekly benefits be paid to the clerk of the district court of the county of domicile or residence.

If the domicile or residence of such minor or mentally incompetent dependent be outside the state of Iowa the industrial commissioner may order and direct that benefits to such minors or incompetents be paid to a guardian, conservator, or legal representative duly qualified under the laws of the jurisdiction wherein the minors or incompetents shall be domiciled or reside. Proof of the identity and qualification of such guardian, conservator, or other legal representative shall be furnished to the industrial commissioner.

(83 Acts, ch 186, § 10039, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Unnumbered paragraph 1 amended

85.50 Report of trustee. The clerk of the district court as such trustee shall, on or before September 30 of each year, make annual reports to the court of all money or property received or expended for each person for whom he is acting as trustee.

A clerk of the district court shall, upon resigning or being removed from office or otherwise becoming disqualified as clerk, make an accounting and final report to be approved by the chief judge of the judicial district and all funds and other property shall be delivered to the successor in the office of clerk of the district court.

(83 Acts, ch 186, § 10040, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Unnumbered paragraph 2 amended

85.59 Inmate of reformatory, penitentiary or similar institution. For the purposes of this section, the term "inmate" includes a person confined in a reformatory, state penitentiary, release center, or other state penal or correctional institution while that person works in connection with the maintenance of the institution or in an industry maintained therein or while on detail to perform services on a public works project.

If an inmate is permanently incapacitated by injury in the performance of his or her work in connection with the maintenance of the institution or in an industry maintained therein or while on detail to perform services on a public works project, that inmate shall be awarded only such benefits as are provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section 96.3 and in effect at the time of the injury.

Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge.

If an inmate is receiving benefits under the provisions of this section and is recommitted to an institution covered by this section, the benefits shall immediately cease. If benefits cease because of the inmate's recommitment, the benefits shall resume upon subsequent release from the institution.

If death results from the injury, death benefits shall be awarded and paid to the dependents of the inmate as in other workers' compensation cases except that the weekly rate shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section 96.3 and in effect at the time of the injury.

Payment under this section shall be made promptly out of appropriations which have been made for that purpose, if any. An amount or part thereof which cannot be paid promptly from the appropriation shall be paid promptly out of money in the state treasury not otherwise appropriated.

The time limit for commencing an original proceeding to determine entitlement to benefits under this section is the same as set forth in section 85.26. If an injury occurs to an inmate so as to qualify the inmate for benefits under this section, notwithstanding the fact that payments of weekly benefits are not commenced, an acknowledgment of compensability shall be filed with the industrial commissioner within thirty days of the time the responsible authority receives notice or knowledge of the injury as required by section 85.23.

If a dispute arises as to the extent of disability when an acknowledgment of compensability is on file or when an award determining liability has been made, an action to determine the extent of disability must be commenced within one year of the time of the release of the inmate from the institution. This does not bar the right to reopen the claim as provided by section 85.26, subsection 2.

Responsibility for the filings required by chapter 86 for injuries resulting in permanent disability or death and as modified by this section shall be made in the same manner as for other employees of the institution.

(83 Acts, ch 101, § 4) SF 136

Unnumbered paragraphs 7 and 8 amended

85.60 Inmates of state penal or correctional facilities. The Iowa department of corrections may elect to include as an employee for purposes of this chapter any person confined as an inmate at an institution provided for in section 217A.2 and who is participating in the inmate employment program. If an inmate in the performance of work sustains an injury arising out of and in the course of the work, the inmate shall be awarded and paid compensation at the rates provided in this chapter. If death results from the injury, death benefits shall be awarded and paid

to the dependents of the inmate. If any such person is awarded weekly compensation under this section and is still committed to a penal institution, the person's compensation benefits under section 85.33 or section 85.34, subsection 1, shall be paid to the department and held in trust for the inmate for so long as the inmate remains so committed. However, the department shall deduct from the benefits awarded the cost of maintaining the inmate not to exceed the level the inmate was paying under the inmate employment program. Weekly compensation benefits awarded pursuant to section 85.34, subsection 2, shall be held in trust and paid to the person as provided in this chapter upon final discharge or parole, whichever occurs first. In the event the person is recommitted to a penal institution prior to receiving in full weekly benefits pursuant to section 85.33 or section 85.34, subsection 1, such benefits shall again be paid to the department for so long as the person remains so recommitted. Also, weekly benefits under section 85.34, subsection 2, shall be suspended and again held in trust until the person is again released by final discharge or parole, whichever first occurs. However, the industrial commissioner may, if the industrial commissioner finds that dependents of the person awarded weekly compensation pursuant to section 85.33 or section 85.34, subsections 1 and 2, would require welfare aid as a result of terminating the compensation, order the weekly compensation to be paid to a responsible person for the use of dependents.

For the purposes of this section:

1. *"Department"* means the Iowa department of corrections.
2. *"Penal institution"* means any reformatory, state penitentiary, release center, or other state penal or correctional institution.

(83 Acts, ch 96, § 57, 58, 159) SF 464

Effective October 1, 1983

Unnumbered paragraph 1 and subsection 1 amended

85.61 Definitions. In this and chapters 86 and 87, unless the context otherwise requires, the following definitions of terms shall prevail:

1. *"Employer"* includes and applies to any person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer firemen only, benefited fire district and the legal representatives of a deceased employer.

2. *"Worker" or "employee"* means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer, every executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer, and including officials elected or appointed by the state, counties, school districts, area education agencies, municipal corporations, or cities under any form of government, and including members of the Iowa highway safety patrol and conservation officers, except as hereinafter specified.

"Worker" or "employee" includes an inmate as defined in section 85.59.

3. The following persons shall not be deemed "workers" or "employees":

- a. A person whose employment is purely casual and not for the purpose of the employer's trade or business except as otherwise provided in section 85.1.

- b. An independent contractor.

- c. Partners; directors of any corporation who are not at the same time employees of such corporation; or directors, trustees, officers or other managing officials of any nonprofit corporation or association who are not at the same time full-time employees of such nonprofit corporation or association.

4. The term *"worker" or "employee"* shall include the singular and plural of both sexes. Any reference to a worker or employee who has been injured shall, when such worker or employee is dead, include his dependents as herein defined or his legal representatives; and where the worker or employee is a minor or incompetent, it shall include his guardian, next friend, or trustee. Notwithstanding any law prohibiting

the employment of minors all minor employees shall be entitled to the benefits of this chapter and chapters 86 and 87 regardless of the age of such minor employee.

5. The words "injury" or "personal injury" shall be construed as follows:

a. They shall include death resulting from personal injury.

b. They shall not include a disease unless it shall result from the injury and they shall not include an occupational disease as defined in section 85A.8.

6. The words "personal injury arising out of and in the course of the employment" shall include injuries to employees whose services are being performed on, in, or about the premises which are occupied, used, or controlled by the employer, and also injuries to those who are engaged elsewhere in places where their employer's business requires their presence and subjects them to dangers incident to the business.

7. The word "court" wherever used in this and chapters 86 and 87, unless the context shows otherwise, shall be taken to mean the district court.

8. The term "volunteer firemen" shall mean any active member of an organized volunteer fire department in this state and any other person performing services as a volunteer fireman for a municipality, township or benefited fire district at the request of the chief or other person in command of the fire department of such municipality, township or benefited fire district, or of any other officer of such municipality, township or benefited fire district having authority to demand such service, and who is not a full-time member of a paid fire department. A person performing such services shall not be classified as a casual employee.

9. "Pay period" means that period of employment for which the employer customarily or regularly makes payments to his employees for work performed or services rendered.

10. "Payroll taxes" means an amount, determined by tables adopted by the industrial commissioner pursuant to chapter 17A, equal to the sum of the following:

a. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal Revenue Code of 1954, and regulations pursuant thereto, as amended, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness and old age to which the employee is entitled on the date on which the employee was injured.

b. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under chapter 422, and any rules pursuant thereto, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness and old age to which the employee is entitled on the date on which the employee was injured.

c. An amount equal to the amount required on July 1 preceding the injury by the Social Security Act of 1935 as amended, to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which the employee was injured.

11. "Spensible weekly earnings" is that amount remaining after payroll taxes are deducted from gross weekly earnings.

12. "Gross earnings" means recurring payments by employer to the employee for employment, before any authorized or lawfully required deduction or withholding of funds by the employer, excluding irregular bonuses, retroactive pay, overtime, penalty pay, reimbursement of expenses, expense allowances, and the employer's contribution for welfare benefits.

13. The words "reserve peace officer" shall mean a person defined as such by section 80D.1 who is not a full-time member of a paid law enforcement agency. A person performing such services shall not be classified as a casual employee.

(83 Acts, ch 36, § 3, 7, 8) SF 51

Effective January 1, 1984. Corporate officers employed prior to January 1, 1983, and those newly employed may sign and file an acceptance of exemption under section 85.61, subsection 3, paragraph d, prior to December 31, 1983

Subsection 3, paragraph d struck

85.66 Second injury fund — payments — custodian. When the total amount of the payments provided for in the preceding section, together with accumulated interest and earnings, equals or exceeds five hundred thousand dollars no further contributions to the fund shall be required; but when, thereafter, the amount of the sum is reduced below three hundred thousand dollars by reason of payments made to employees pursuant to this division, contributions shall be resumed and shall continue until the sum, together with accumulated interest and earnings, again amounts to five hundred thousand dollars. The treasurer of state shall determine when contributions shall be made to the fund and when they shall be suspended and may enforce the collection of contributions.

Moneys so collected shall constitute a "Second Injury Fund", in the custody of the treasurer of state, to be disbursed only for the purposes stated in this division, and shall not at any time be appropriated or diverted to any other use or purpose. The treasurer of state shall invest any surplus moneys of the fund in securities which constitute legal investments for state funds under the laws of this state, and may sell any of the securities in which the fund is invested, if necessary, for the proper administration or in the best interests of the fund. Disbursements from the fund shall be paid by the treasurer of state only upon the written order of the industrial commissioner. The treasurer of state shall quarterly prepare a statement of the fund, setting forth the balance of moneys in the fund, the income of the fund, specifying the source of all income, the payments out of the fund, specifying the various items of payments, and setting forth the balance of the fund remaining to its credit. The statement shall be open to public inspection in the office of the treasurer of state.

(83 Acts, ch 105, § 5) SF 423

Amended

85.67 Administration of fund — special counsel. The treasurer of state shall be charged with the conservation of the assets of the second injury fund, and the collection of contributions to the fund. The attorney general shall appoint a staff member to represent the treasurer of state and the fund in all proceedings and matters arising under this division. In making an award under this division, the industrial commissioner shall specifically find the amount the injured employee shall be paid weekly, the number of weeks of compensation which shall be paid by the employer, the date upon which payments out of the fund shall begin, and, if possible, the length of time the payments shall continue.

(83 Acts, ch 105, § 6) SF 423

Amended

85.68 Actions. The treasurer of state, on behalf of the second injury fund created under this division, shall have a cause of action under section 85.22 to the same extent as an employer against any person not in the same employment by reason of whose negligence or wrong the subsequent injury of the previously disabled person was caused. The action shall be brought by the treasurer of state on behalf of the fund, and any recovery, less the necessary and reasonable expenses incurred by the treasurer of state, shall be paid to the treasurer of state and credited to the fund.

(83 Acts, ch 105, § 7) SF 423

Amended

CHAPTER 86

INDUSTRIAL COMMISSIONER

86.29 The judicial review petition. Notwithstanding chapter 17A, in a petition for judicial review of a final agency decision in a contested case under this chapter or chapter 85, 85A, 85B, or 87, the opposing party shall be named the respondent, and the agency shall not be named as a respondent.

(83 Acts, ch 105, § 8) SF 423

Amended

CHAPTER 87

COMPENSATION LIABILITY INSURANCE

87.13 Interpretative clause. All provisions in chapters 85, 85A, 85B, 86, and this chapter relating to compensation for injuries sustained arising out of and in the course of employment in the operation of coal mines or production of coal under any system of removing coal for sale are exclusive, compulsory and obligatory upon the employer and employee in such employment.

(83 Acts, ch 101, § 5) SF 136

Amended

87.21 Employer failing to insure. Any employer, except an employer with respect to an exempt employee under section 85.1, who has failed to insure the employer's liability in one of the ways provided in this chapter, unless relieved from carrying such insurance as provided in section 87.11, is liable to an employee for a personal injury in the course of and arising out of the employment, and the employee may enforce the liability by an action at law for damages, or may collect compensation as provided in chapters 85, 85A, 85B, and 86. In actions by the employee for damages under this section, the following rules apply:

1. It shall be presumed:
 - a. That the injury to the employee was the direct result and growing out of the negligence of the employer.
 - b. That such negligence was the proximate cause of the injury.
2. The burden of proof shall rest upon the employer to rebut the presumption of negligence, and the employer shall not be permitted to plead or rely upon any defense of the common law, including the defenses of contributory negligence, assumption of risk and the fellow servant rule.

3. In an action at law for damages the parties have a right to trial by jury.

(83 Acts, ch 36, § 4, 8) SF 51

Effective January 1, 1984

Unnumbered paragraph 1 amended

87.22 Corporate officer exclusion from workers' compensation or employers' liability coverage. The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation, may exclude themselves from workers' compensation coverage under chapters 85, 85A, and 85B by knowingly and voluntarily rejecting workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy, initially and upon renewal of the policy, a written rejection, or if such a policy is not issued, by signing a written rejection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner, in substantially the following form:

REJECTION OF WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY COVERAGE

I understand that by signing this statement I reject the coverage of chapters 85, 85A, and 85B of the Code of Iowa relating to workers' compensation.

I understand that my rejection of the coverage of chapters 85, 85A, and 85B is not a waiver of any rights or remedies available to me or to others on my behalf in a civil action related to personal injuries sustained by me arising out of and in the course of my employment with the corporation.

I also understand that by signing this statement and checking alternative (1) below I reject employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. (Check either alternative (1) or (2):)

- (1) I reject the employers' liability coverage.
- (2) I decline to reject the employers' liability coverage.

Signed
 Corporate Office
 Date
 City, County, State
 of Residence
 Witness
 Witness

I also understand that the signing of this statement and checking of alternative (1) below by an authorized agent of the corporation rejects for the corporation employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. (Check either alternative (1) or (2):)

- (1) The corporation rejects the employers' liability coverage.
- (2) The corporation declines to reject the employers' liability coverage.

Signed
 Relationship to Corporation
 Date
 City, County, State
 of Residence
 Witness
 Witness

The rejection of workers' compensation coverage is not enforceable if it is required as a condition of employment. A corporate officer who signs a written rejection filed with the industrial commissioner may terminate the rejection by signing a written notice of termination which is witnessed by two disinterested individuals, who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner.

(83 Acts, ch 36, § 5, 7, 8) SF 51
 Effective January 1, 1984. Corporate officers employed prior to January 1, 1983, and those newly employed may sign and file an acceptance of exemption under section 85.61, subsection 3, paragraph d, prior to December 31, 1983
 NEW section

CHAPTER 91

BUREAU OF LABOR

91.10 Power to secure evidence. The labor commissioner and the commissioner's deputy may issue subpoenas, administer oaths, and take testimony in all matters relating to the duties required of them. Witnesses subpoenaed and testifying before the commissioner or the commissioner's deputy shall be paid the same fees as witnesses under section 622.69, payment to be made out of the funds appropriated to the bureau of labor.

(83 Acts, ch 186, § 10041, 10201) SF 495
 Amended

CHAPTER 92

CHILD LABOR

92.17 Exceptions. Nothing in this chapter shall be construed to prohibit:

1. Any part-time, occasional, or volunteer work for nonprofit organizations generally recognized as educational, charitable, religious, or community service in nature.

2. A child from working in or around any home before or after school hours or during vacation periods, provided such work is not related to or part of the business, trade, or profession of the employer.

3. Work in the production of seed, limited to removal of off-type plants, corn tassels and hand-pollinating during the months of June, July and August by persons fourteen years of age or over, and part-time work in agriculture, not including migratory labor.

4. A child from working in any occupation or business operated by the child's parents. For the purposes of this subsection, "child" and "parents" include a foster child and the child's foster parents who are licensed by the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 4 amended

CHAPTER 93

ENERGY POLICY COUNCIL

93.14 Energy research and development fund. There is created within the council an energy research and development fund. Moneys deposited in the fund shall be used for the research and development of projects designated to improve Iowa's energy situation by developing improved methods of energy conservation, by enabling Iowans to better manage available energy resources, or through the increased development and use of Iowa's renewable or nonrenewable energy resources. The moneys credited to the fund under section 556.18 shall be used only for the weatherization or energy assistance program administered by the council. The projects will be selected by the council with the advice of knowledgeable persons appointed by the council to provide assistance.

(83 Acts, ch 191, § 17, 27) HF 184

Effective April 14, 1983

Amended

CHAPTER 93A

LAND PRESERVATION AND USE

93A.4 County inventories.

1. Each county commission shall compile a county land use inventory of the unincorporated areas of the county by January 1, 1984. The county inventories shall where adequate data is available contain at least the following:

a. The land available and used for agricultural purposes by soil suitability classifications or land capability classification, whichever is available.

b. The lands used for public facilities, which may include parks, recreation areas, schools, government buildings and historical sites.

c. The lands used for private open spaces, which may include woodlands, wetlands and water bodies.

d. The land used for each of the following uses: commercial, industrial including mineral extraction, residential and transportation.

e. The lands which have been converted from agricultural use to residential use, commercial or industrial use, or public facilities since 1960.

2. In addition to that provided under subsection 1, the county inventory shall also contain the land inside the boundaries of a city which is taxed as agricultural land.

3. The information required by subsection 1 shall be provided both in narrative and map form. The county commission shall provide a cartographic display which contrasts the county's present land use with the land use in the county in 1960 based on the best available information. The display need only show the areas in agriculture, private open spaces, public facilities, commercial, industrial, residential and transportation uses.

4. The state department of agriculture, office for planning and programming, department of soil conservation, state conservation commission, department of water, air and waste management, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

(83 Acts, ch 101, § 6) SF 136

Subsection 4 amended

(83 Acts, ch 137, § 26) SF 368

Subsection 4 amended; identical amendment

93A.11 Incentives for agricultural land preservation.

1. *Nuisance restriction.* A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. The subsection does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection does not apply to actions or proceedings arising from injury or damage to person or property caused by the farm or farm operation before the creation of the agricultural area. This subsection does not affect or defeat the right of a person to recover damages for injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land.

2. *Water priority.* In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the department of water, air and waste management shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

(83 Acts, ch 101, § 7) SF 136

Subsection 2 amended

(83 Acts, ch 137, § 27) SF 368

Subsection 2 amended; identical amendment

CHAPTER 94

STATE EMPLOYMENT BUREAU AND EMPLOYMENT AGENCIES

94.5 *Failure to procure employment.* A person who agrees or promises, or who advertises through the public press, or by letter, to furnish employment or situations to a person, and in pursuance of the advertisement, agreement, or promise, receives money, personal property, or other valuable consideration, and who fails to procure for the person acceptable situations or employment as agreed upon, within the time stated or agreed upon, or if no time is specified then within a reasonable time, shall upon demand return all money, personal property, or valuable consideration of whatever character. This section, however, does not apply to registration fees

of one dollar or less. An employer shall not require an applicant to pay a fee or charge as a condition of application or hire with the employer.

(83 Acts, ch 61, § 1) SF 151

Amended

94.6 Limitation of fee. A person, licensed under section 95.1, shall not charge a fee for the furnishing or procurement of a situation or employment paying less than two hundred fifty dollars per month which exceeds twenty-five percent of the wages paid for the first month of employment or situation furnished or procured, but in no event shall the charge for the furnishing or procurement of any situation or employment be in excess of eight percent of the annual gross earnings. An employer shall not require an applicant to pay a fee or charge as a condition of application or hire with the employer. The provisions of this section shall not apply to the furnishing or procurement of vaudeville acts, circus acts, theatrical, stage or platform attractions or amusement enterprises or to fees charged solely to employers where no fee is charged to the employee.

(83 Acts, ch 61, § 2) SF 151

Amended

CHAPTER 96

EMPLOYMENT SECURITY

96.3 How paid and amounts.

1. *Payment.* Twenty-four months after the date when contributions first accrue under this chapter, benefits shall become payable from the fund; provided, that wages earned for services defined in section 96.19, subsection 6, paragraph "g" (3), irrespective of when performed, shall not be included for purposes of determining eligibility, under section 96.4 or full-time weekly wages, under subsection 4 of this section, for the purposes of any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable under subsection 5 of this section on the basis of such wages. All benefits shall be paid through employment offices in accordance with such regulations as the department of job service may prescribe.

2. *Total unemployment.* Each eligible individual who is totally unemployed in any week shall be paid with respect to such week benefits in an amount which shall be equal to his or her weekly benefit amount.

3. *Partial unemployment.* An individual who is partially unemployed in any week as defined in section 96.19, subsection 9, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

4. *Determination of benefits.* With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July.

| | | |
|---------------------------------|---|---|
| If the number of dependents is: | The weekly benefit amount shall equal the following fraction of high quarter wages: | Subject to the following maximum percentage of the statewide average weekly wage: |
|---------------------------------|---|---|

0

1/23

53%

| | | |
|-----------|------|-----|
| 1 | 1/22 | 55% |
| 2 | 1/21 | 57% |
| 3 | 1/20 | 60% |
| 4 or more | 1/19 | 65% |

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

For the purposes of this subsection statewide average weekly wage means the amount computed by the director at least once a year on the basis of the aggregate amount of wages reported by employers in each preceding twelve-month period ending on December 31 and divided by the figure that results from fifty-two times the average of mid-month employment reported by employers for the same period. In determining the aggregate amount of wages paid statewide, the director shall disregard any limitation on the amount of wages subject to contributions under state law.

5. *Duration of benefits.* The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged hereunder, in the inverse chronological order as the wages on which such wage credits are based were paid. However if the state and national "off indicators" are in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the weekly workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying weekly indemnity insurance benefits.

6. *Part-time workers.*

a. As used in this subsection the term "part-time worker" means an individual whose normal work is in an occupation in which his or her services are not required for the customary scheduled full-time hours prevailing in the establishment in which he or she is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he or she is employed.

b. The director shall prescribe fair and reasonable general rules applicable to part-time workers, for determining their full-time weekly wage, and the total wages in employment by employers required to qualify such workers for benefits.

7. *Recovery of overpayment of benefits.* If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

8. *Back pay.* If an individual receives benefits for a period of unemployment and subsequently receives a payment for the same period from the individual's employer in the form of or in lieu of back pay, the benefits shall be recovered. The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct the amount of the benefits from the back pay and remit a sum equal to that amount to the unemployment compensation fund and the balance to the individual, or may recover the amount of the benefits either by having a sum equal to that amount deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to that amount. If an agreement is reached to allow the employer to deduct the amount of benefits from the back pay and remit that amount to the fund, the department shall not charge that amount to the employer's account under section 96.7.

9. *Child support intercept.*

a. An individual filing a claim for benefits under section 96.6, subsection 1 shall, at the time of filing, disclose whether the individual owes a child support obligation which is being enforced by the child support recovery unit established in section 252B.2. If an individual discloses that such a child support obligation is owed and the individual is determined to be eligible for benefits under this chapter, the department shall notify the child support recovery unit of the individual's disclosure and deduct and withhold from benefits payable to the individual the amount specified by the individual.

b. However, if the child support recovery unit and an individual owing a child support obligation reach an agreement to have specified amounts deducted and withheld from the individual's benefits and the child support recovery unit submits a copy of the agreement to the department, the department shall deduct and withhold the specified amounts.

c. However, if the department is garnisheed by the child support recovery unit under chapter 642 and an individual's benefits are condemned to the satisfaction of the child support obligation being enforced by the child support recovery unit, the department shall deduct and withhold from the individual's benefits that amount required through legal process.

Notwithstanding section 642.2, subsections 2, 3, 5, and 6 which restrict garnishments under chapter 642 to wages of public employees, the department may be garnisheed under chapter 642 by the child support recovery unit established in section 252B.2, pursuant to a judgment for child support against an individual eligible for benefits under this chapter.

Notwithstanding section 96.15, benefits under this chapter are not exempt from garnishment, attachment, or execution if garnished by the child support recovery unit, established in section 252B.2, to satisfy the child support obligation of an individual who is eligible for benefits under this chapter.

d. An amount deducted and withheld under paragraph "a", "b", or "c" shall be paid by the department to the child support recovery unit, and shall be treated as if it were paid to the individual as benefits under this chapter and as if it were paid by the individual to the child support recovery unit in satisfaction of the individual's child support obligations.

e. If an agreement for reimbursement has been made, the department shall be reimbursed by the child support recovery unit for the administrative costs incurred by the department under this section which are attributable to the enforcement of child support obligations by the child support recovery unit.

(83 Acts, ch 190, § 1 - 4, 27) HF 637

Amendments to subsections 3, 4 and 5 take effect only for claims filed on or after July 3, 1983; and amendment to subsection 7 takes effect June 29, 1983, and applies to all new or pending claims

Subsection 3, and subsection 4, unnumbered paragraph 1 amended

Subsection 5 amended by adding NEW unnumbered paragraph 2

Subsection 7, unnumbered paragraph 2 amended

96.4 Required findings. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

1. He or she has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the department may prescribe. The provisions of this subsection shall be waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c".

2. He or she has made a claim for benefits in accordance with the provisions of section 96.6, subsection 1.

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. The provision of this subsection shall be waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 9, paragraph "c" or if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "i".

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 6, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave, provided for in the individual's contract if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms.

b. Benefits based on service in employment, defined in section 96.19, subsection 6, and based on service after December 31, 1977 in an instructional, research, or principal administrative capacity for an educational institution operated by a government entity or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution the second of such academic years or terms, or during a period of paid sabbatical leave, provided for in the individual's contract, and

c. With respect to services in any other capacity for an educational institution, benefits shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or terms if the individual performs the services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

d. With respect to any services performed after July 1, 1977, in any capacity for an educational institution other than an institution of higher education, compensation payable on the basis of such services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such service in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such service in the period immediately following such vacation period or holiday recess.

e. With respect to services performed after December 31, 1977, in an instructional, research, or principal administrative capacity in an institution of higher education, compensation payable on the basis of such services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. sec. 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. sec. 2319(l), if wages for the work are not less than eighty percent of the individual's weekly benefit amount.

7. The individual has satisfied one one-week waiting period during the individual's benefit year. To satisfy the one-week waiting period, the individual, with respect to the week in question, must be unemployed, have filed a claim for benefits, and be eligible for benefits from this state, but must not have received benefits from this or another state, and must not be eligible for benefits from another state.

(83 Acts, ch 190, § 5 - 8, 26, 27) HF 637

Amendments to subsections 3 and 4 take effect only for claims filed on or after July 3, 1983; amendment to subsection 5 takes effect July 1, 1983; and new subsection 7 takes effect only for initial claims filed on or after January 6, 1985

Subsection 7 prospectively repealed; 83 Acts, ch 190, § 26 (HF 637)

Subsections 3 and 4, and subsection 5, paragraph c amended

NEW subsection 7

96.5 Causes. An individual shall be disqualified for benefits:

1. *Voluntary quitting.* If he or she has left his or her work voluntarily without good cause attributable to his or her employer, if so found by the department. But he or she shall not be disqualified if the department finds that:

a. He or she left his or her employment in good faith for the sole purpose of accepting other employment, which he or she did accept, and that he or she remained continuously in said new employment for not less than six weeks. Wages earned with the employer that he or she has left shall, for the purpose of computing and charging benefits, be deemed wages earned from the employer with whom the individual accepted other employment and benefits shall be charged to the employer with whom he or she accepted other employment. The department shall advise the chargeable employer of the name and address of the former employer, the period covered, and the extent of benefits which may be charged to the account of the chargeable employer. In those cases where the new employment is in another state, no employer's account shall be charged with benefits so paid except that employers who are required by law or by their election to reimburse the fund for benefits paid shall be charged with benefits under this paragraph. In those cases where he or she left his or her employment in good faith for the sole purpose of accepting better employment, which he or she did accept and such employment is terminated by the employer, or he or she is laid off after one week but prior to the expiration of six weeks, the claimant, provided he or she is otherwise eligible under this chapter, shall be eligible for benefits and such benefits shall not be charged to any employer's account.

b. He or she has been laid off from his or her regular employment and has sought temporary employment, and has notified his or her temporary employer that he or she expected to return to his or her regular job when it became available, and the temporary employer employed him or her under these conditions, and the worker did return to his or her regular employment with his or her regular employer as soon as it was available.

c. He or she left his or her employment for the necessary and sole purpose of taking care of a member of his or her immediate family who was then injured or ill, and if after said member of his or her family sufficiently recovered, he or she

immediately returned to and offered his or her services to his or her employer, provided, however, that during such period he or she did not accept any other employment.

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

e. He or she left his or her employment upon the advice of a licensed and practicing physician, for the sole purpose of taking a member of his or her family to a place having a different climate, during which time he or she shall be deemed unavailable for work, and notwithstanding during such absence he or she secures temporary employment, and returned to his or her regular employer and offered his or her services and his or her regular work or comparable work was not available, provided he or she is otherwise eligible.

f. He or she is the principal support of his or her family, or is a widow, widower, legally separated from his or her spouse, or a single person, and he or she left his or her employing unit for not to exceed ten working days, or such additional time as may be allowed by his or her employer, for compelling personal reasons (if so found by the department), and prior to such leaving had informed his or her employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist he or she returned to his or her employer and offered his or her services and his or her regular or comparable work was not available, provided he or she is otherwise eligible; except that during the time he or she is away from his or her work because of the continuance of such compelling personal reasons, he or she shall not be eligible for benefits.

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

h. "Principal support" shall mean exclusive of the earnings of any child of the wage earner.

i. The individual has left employment in lieu of exercising a right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job.

2. *Discharge for misconduct.* If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

b. Provided further, if gross misconduct is established, the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.

c. Gross misconduct is deemed to have occurred after a claimant loses employment as a result of an act constituting an indictable offense in connection with his or her employment, provided the claimant is duly convicted thereof or has signed a statement admitting that he or she has committed such an act. Determinations regarding a benefit claim may be redetermined within five years from the effective date of the claim. Any benefits paid to a claimant prior to a determination that the claimant has lost employment as a result of such act shall not be considered to have been accepted by the claimant in good faith.

3. *Failure to accept work.* If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the employment office or the department or to accept suitable work when offered that individual, or to return to customary self-employment, if any. The department in co-operation with the employment office shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department, unless the employers refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual from further benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(1) One hundred percent, if the work is offered during the first five weeks of unemployment.

(2) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(3) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(4) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

4. *Labor disputes.* For any week with respect to which the department finds that his or her total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he or she is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the department that:

a. He or she is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

b. He or she does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

5. *Other compensation.* For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

a. Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

b. Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

c. A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.

Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraphs "a", "b", or "c", were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual, otherwise qualified, from any of the benefits contemplated herein.

6. *Benefits from other state.* For any week with respect to which or a part of which he or she has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States, provided that if the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, this disqualification shall not apply.

7. *Vacation pay.*

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed "wages" as defined in section 96.19, subsection 12, and shall be applied as provided in paragraph "c" hereof.

b. Whenever, in connection with any separation or layoff of an individual, his or her employer makes a payment or payments to him or her, or becomes obligated to make such payment to him or her as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation, and within seven calendar days after notification of the filing of his or her claim, designates by notice in writing to the department the period to which such payment shall be allocated; provided, that if such designated period is extended by the employer, he or she may again similarly designate an extended period, by giving notice thereof in writing to the commission not later than the beginning of the extension of such period, with the same effect as if such period of extension were included in the original designation. The amount of any such payment or obligation to make payment, shall be deemed "wages" as defined in section 96.19, subsection 12, and shall be applied as provided in paragraph "c" of this subsection 7.

c. Of the wages described in paragraph "a" (whether or not the employer has designated the period therein described), or of the wages described in paragraph "b", if the period therein described has been designated by the employer as therein provided, a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to him or her with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums, so designated or attributed to such normal workdays, equal or exceed his or her weekly benefit amount. If the amount so designated or attributed as wages is less than the weekly benefit amount of such individual, his or her benefits shall be reduced by such amount.

d. Notwithstanding contrary provisions in paragraphs "a", "b" and "c", if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer and if the employer does not designate the vacation period pursuant to paragraph "b", then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in section 96.19, subsection 12, for any period in excess of one week and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter. However, if the employer designates more than one week as the vacation period pursuant to paragraph "b", the vacation pay, vacation pay allowance, or pay in lieu of vacation shall be considered wages and shall be deducted from benefits.

e. If an employer pays or is obligated to pay a bonus to an individual at the same time the employer pays or is obligated to pay vacation pay, a vacation pay allowance, or pay in lieu of vacation, the bonus shall not be deemed wages for purposes of determining benefit eligibility and amount, and the bonus shall not be deducted from unemployment benefits the individual is otherwise entitled to receive under this chapter.

8. *Administrative penalty.* If the department finds that, with respect to any week of an insured worker's unemployment for which such person claims credit or benefits, such person has, within the thirty-six calendar months immediately preceding such week, with intent to defraud by obtaining any benefits not due under this chapter, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact; such person shall be disqualified for the week in which the department makes such determination, and forfeit all benefit rights under the unemployment compensation law for a period of not more than the remaining benefit period as determined by the department according to the circumstances of each case. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter.

9. *Athletes — disqualified.* Services performed by an individual, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods, if such individual performs such services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such season or similar periods.

10. *Aliens — disqualified.* For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purpose of performing such services or was permanently residing in the United States under color of law, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigra-

tion and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

(83 Acts, ch 190, § 9, 10, 27) HF 637

Amendments effective only for claims filed on or after July 3, 1983

Subsection 1 amended by adding NEW paragraph i

Subsection 7 amended by adding NEW paragraphs d and e

96.6 Filing — determination — appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

2. *Initial determination.* A representative designated by the director shall promptly notify all interested parties to the claim of the filing thereof, and the parties shall have ten days from the date of mailing the notice of the filing of said claim by ordinary mail to the last known address to protest payment of benefits to said claimant. The representative shall promptly examine the claim and any protest thereto and, on the basis of the facts found by the representative, shall determine whether or not such claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. Unless the claimant or other interested party, after notification or within ten calendar days after such notification was mailed to the claimant's last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If a hearing officer affirms a decision of the representative, or the appeal board affirms a decision of the hearing officer, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

3. *Appeals.* Unless such appeal is withdrawn, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the hearing officer's decision, together with the hearing officer's reasons therefor, which shall be deemed to be the final decision of the department, unless within fifteen days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection 5 of this section.

4. *Appeal board.* To hear and decide disputed claims, there is established an appeal board. The appeal board shall consist of three members appointed by the governor subject to confirmation by the senate. One member shall be a representative of employers, one member shall be a representative of employees, and one member who shall be impartial and shall represent the general public. The members shall serve six-year staggered terms beginning and ending as provided in section 69.19. No more than two members of the appeal board shall be members of the same political party. Any vacancy in the membership shall be filled in the same manner as the original appointment was made.

The members of the appeal board shall select a chairperson and vice chairperson from their membership.

The appeal board shall meet as often as deemed necessary, but not less than one time per month. Meetings shall be set by a majority of the appeal board or upon the call of the chairperson and vice chairperson.

Members of the appeal board shall each be paid a salary set by the governor, within a range of from eighteen thousand nine hundred dollars to twenty-six thousand six hundred dollars annually. Each member shall be allowed actual and necessary expenses in the same amounts paid to other state employees incurred in the performance of their duties from funds appropriated to the department.

5. *Appeal board review.* The appeal board may on its own motion affirm, modify, or set aside any decision of a hearing officer on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of a hearing officer and by the representative whose decision has been overruled or modified by the hearing officer. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

6. *Procedure.* The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the department under chapter 17A. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. The record shall be retained for sixty days following the final date for appeal of a disputed claim and may be destroyed thereafter.

7. *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary traveling expenses at a rate fixed by the director, which fees shall be charged to the unemployment compensation administration fund of the department.

8. *Judicial review.* An application for rehearing shall be filed pursuant to section 17A.16. A petition for judicial review of a decision of the department or of the appeal board shall be filed pursuant to section 17A.19. The department may be represented in any such judicial review proceeding by any qualified attorney who is a regular salaried employee of the department or who has been designated by the department for that purpose, or at the department's request, by the attorney general. Notwithstanding the terms of the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the claimant was last employed or resides, provided that if the claimant does not reside in the state of Iowa the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section 17A.19, subsection 6, the department shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire record of a contested claim. The department may also certify to such courts, questions of law involved in any decision by it. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment or decree of the district court to the supreme court.

(83 Acts, ch 190, § 11, 12, 27) HF 637

Amendments take effect June 29, 1983, and apply to all new or pending claims
Subsections 2 and 3 amended

96.7 Payment — rates.

1. *Payment.*
 - a. On and after July 1, 1936, contributions shall accrue on all taxable wages paid by an employer for insured work.
 - b. Such contributions shall become due and be paid to the department for the fund at such times and in such manner as the director by regulation prescribes.
 - c. In the payment of any contribution the fractional part of a cent shall be disregarded unless it amounts to one-half cent or more in which case it shall be increased to one cent.
 - d. Contributions required from an employer shall not be deducted in whole or in part from the wages paid to individuals in his employ.
2. *Rate of contribution by employers.* Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:
 - a. One and eight-tenths percent with respect to employment for the six months' period beginning July 1, 1936, provided that if the total of such contributions at such one and eight-tenths percent rate equals less than nine-tenths of one percent of the annual payroll of any employer for the calendar year 1936, such employer shall pay, at such time as the department shall prescribe, an additional lump-sum contribution with respect to employment for such six months' period beginning July 1, 1936, equal to the difference between nine-tenths of one percent of his or her annual payroll for the calendar year 1936 and the total of his or her contributions at such one and eight-tenths percent rate for such six months' period beginning July 1, 1936, and provided further that in no event shall employers' contributions at such one and eight-tenths percent rate exceed nine-tenths of one percent of his annual payroll for the calendar year 1936;
 - b. One and eight-tenths percent with respect to employment in the calendar year 1937;
 - c. Two and seven-tenths percent with respect to employment during the calendar years 1938, 1939, 1940; and
 - d. Two and seven-tenths percent of wages paid by him or her during the calendar year 1941, and during each calendar year thereafter, with respect to employment occurring after December 31, 1940, except as may be otherwise prescribed in subsection 3 of this section.
3. *Future rates based on benefit experience.*
 - a. (1) The department shall maintain a separate account for each employer and shall credit his or her account with all contributions which he or she has paid or which have been paid on his or her behalf.
 - (2) The amount of regular benefits plus fifty percent of the amount of extended benefits, as determined under section 96.29, paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred. Provided, that in any case in which the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, then benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributing and reimbursable employers notwithstanding section 96.8, subsection 5, and subparagraph (3) of this paragraph. An employer's account shall not be charged with benefit payments made to any individual who has left the work of the employer voluntarily without good cause attributable to the employer, but shall be charged to the account of the next succeeding employer with whom the individual requalified for benefits as determined under section 96.5, subsection 1, paragraph "g". However, the succeeding employer's account shall first be charged with benefit payments to the individual due to wage credits earned by the individual

while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefit payments to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation trust fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with benefit payments. Provided further, that an employer's account shall not be charged with benefit payments made to an individual who has been discharged for misconduct in connection with the individual's employment, and shall not be charged with benefit payments made to an individual after the individual has failed without good cause, either to apply for available, suitable work or to accept suitable work or to return to customary self-employment, but shall be charged to the account of the next succeeding employer with whom the individual requalifies for benefits as determined respectively under section 96.5, subsections 2 and 3.

However, with respect to a succeeding employer who employs an individual who has been discharged for misconduct by a previous employer, the succeeding employer's account shall first be charged with benefit payments to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefit payments to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation trust fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with benefit payments.

(3) The amount of regular benefits so charged in any calendar quarter against the account of any employer shall not exceed the amount of such individual's wage credits based on employment with that employer during that quarter. The amount of extended benefits so charged in any calendar quarter against the account of any employer shall not exceed an additional fifty percent of the amount of such individual's wage credits based on employment with that employer during that quarter except that all extended benefits shall be so charged to a government entity which is either a reimbursable or contributing employer.

(4) The director shall by general rule prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment during the same calendar quarter.

(5) Nothing in this chapter shall be construed to grant any employer or the individuals in his or her service prior claims or rights to the amounts paid by him or her into the fund either on his or her own behalf or on behalf of such individuals.

(6) As soon as practicable after the close of each calendar quarter, and in any event within forty days after the close of such quarter, the department shall notify each employer of the amount that has been charged to the employer's account for benefits paid during such quarter. This statement to the employer shall show the name of each claimant to whom such benefit payments were made, the claimant's social security number, and the amount of benefits paid to such claimant. Any employer who has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to such claimants may within thirty days after the receipt of such statement appeal to the director for a hearing to determine the eligibility of the claimant to receive such benefits. The director shall refer the same to a hearing officer for hearing and both the employer and the claimant shall receive notice of the time and place of such hearing.

(7) Any employer may at any time make voluntary payments to his or her account in excess of the other requirements of this chapter, and all such payments shall be considered on any computation date as contributions required under the provisions of this chapter if they are paid by the employer not later than the next December 15 after such computation date. Voluntary contributions shall not exceed

the maximum voluntary contribution. For the purposes of this subparagraph "maximum voluntary contribution" shall equal an amount sufficient to lower the rate of contribution of an employer to the lower rate of contribution assigned in the next lower percentage of excess rank. Provided that an employer shall not contribute an amount sufficient to reduce the rate of contribution of the employer to a zero contribution rate.

b. In any case in which the enterprise or business for which contributions have been paid has been sold or otherwise transferred to a subsequent employing unit, or in any case in which one or more employing units have been reorganized or merged into a single employing unit and the successor employer continues to operate such enterprise, such successor employer shall assume the position of the predecessor employer or employers with respect to such predecessors' payrolls, contributions, accounts and contribution rates to the same extent as if there had been no change in the ownership or control of such enterprise or business.

In any case in which a clearly segregable and identifiable part of an enterprise or business for which contributions have been paid has been sold or otherwise transferred to a subsequent employing unit, and such successor employing unit having qualified as an "employer" as defined under section 96.19, subsection 5, paragraph "b", continues to operate such enterprise or business, such successor shall assume the position of the predecessor employer with respect to such predecessor's payrolls, contributions, accounts and contribution rates which are attributable to the part of the enterprise or business transferred to the same extent as if there has been no change in the ownership or control of such enterprise or business.

The contribution rate to be assigned to the acquiring employer for the period beginning not earlier than the date of the transfer and ending not later than the next following effective date of contribution rates, shall be the contribution rate applicable to the transferring employer with respect to the period immediately preceding the date of the transfer, provided that the acquiring employer was not, prior to the transfer, a subject employer, and only one transferring employer, or only transferring employers having identical rates, are involved; or a newly computed rate based on the experience of the transferring employer attributable to the part of the business transferred to the acquiring employer combined with the experience of the acquiring employer as of the last computation date.

The contribution rate to be assigned to the acquiring employer for the next following regular rate year, is a contribution rate based on the experience of the acquiring employer and only so much of the experience of the transferring employer as is attributable to the part of the business transferred.

Provided, however, that application for such transfer of partial record is made within sixty days from the date of transfer and meets the approval of the predecessor and the director, and provided further that such partial record shall include sufficient information for the proper administration of this chapter with respect to payment of unemployment benefits and computation of future rates based on benefit experience.

In determining each employer's rate of contribution for the calendar year 1945, and for each year thereafter, such employer shall be given full credit for the payrolls, contributions, accounts and contribution rates of his or her predecessor employer or employers to the same extent as if there had been no change in the organization or the ownership of the business. Provided, that in any case in which such sale, transfer, merger or reorganization has taken place in any year after the predecessor employer's rate of contribution (hereafter called rate) has been determined for such year the employer's rate for the remainder of such year, shall, upon his or her application to the department be determined in the following manner:

(1) If the successor employer has no rate or if he or she has a rate and it is the same rate as that of his or her predecessor employer or employers, their rates being the same rate, his or her rate shall be that of the predecessor employer or employers.

(2) If the rate or rates of the predecessor employers are not the same rate, and that of the successor employer if he or she has a rate is not the same rate as that of the predecessor employer then the rate of the successor employer shall be redetermined under the combined experience of the predecessor employer or employers and the successor employers.

c. No reduced rate of contribution shall be granted to a contributing employer until there shall have been twelve consecutive calendar quarters immediately preceding the first computation date throughout which the employer's account has been chargeable with benefit payments. Provided, that with respect to the calendar year commencing January 1, 1972, and each calendar year thereafter through December 31, 1981, except as provided in paragraph "d" of this subsection, a contributing employer who has not been subject to this chapter for a sufficient period of time to meet the twelve-quarter requirement shall qualify for a computed rate of contribution if there shall have been a lesser period throughout which the employer's account has been chargeable, but in no event less than eight consecutive calendar quarters immediately preceding the computation date; provided further, that with respect to the calendar years commencing January 1, 1972, and ending December 31, 1977, except as provided in paragraph "d" of this subsection, each contributing employer newly subject to this chapter shall pay contributions at the rate of one and five-tenths percent and beginning January 1, 1978, and ending December 31, 1981, at the rate specified in the ninth percentage of excess rank but not less than one and eight-tenths percent until the end of the calendar year in which the employer shall have had eight consecutive calendar quarters immediately preceding the computation date throughout which the employer's account has been chargeable with benefit payments. Beginning January 1, 1982, a contributing employer newly subject to this chapter and not previously qualified for a computed rate shall pay contributions at the rate specified in the ninth percentage of excess rank but not less than one and eight-tenths percent until the end of the calendar year in which the employer's account has been chargeable with benefit payments for twenty consecutive calendar quarters immediately preceding the computation date; however, the employer shall pay contributions at a computed rate if the employer's percentage of excess is a negative number, the employer's account has been chargeable with benefit payments for eight consecutive calendar quarters immediately preceding the computation date, and the employer's account has been charged with benefit payments of more than twenty-six times the maximum weekly benefit amount for an individual with four or more dependents during the four consecutive calendar quarters immediately preceding the computation date. Thereafter, the employer's contribution rate shall be determined in accordance with paragraph "d" of this subsection.

d. The department shall determine the rate table to be in effect for the rate year following the rate computation date, by determining the ratio of the current reserve fund ratio to the highest benefit cost rate on the rate computation date.

(1) The current reserve fund ratio shall be computed by dividing the total trust funds available for payment of benefits, on the rate computation date, by the total wages paid in covered employment excluding reimbursable employment wages during the first four calendar quarters of the five calendar quarters immediately preceding the rate computation date.

(2) The highest benefit cost rate shall be the highest of the resulting ratios computed by dividing the total benefit payments, excluding reimbursable benefit payments, during each consecutive twelve-month period, during the ten-year period ending on the rate computation date, by the total wages, excluding reimbursable employment wages, paid in the four calendar quarters ending nearest and prior to the last day of such twelve-month period.

If the current reserve fund ratio, divided by the highest benefit cost rate:

| <u>Equals or exceeds</u> | <u>But is less than</u> | <u>The contribution rate table in effect shall be</u> |
|--------------------------|-------------------------|---|
| 0.0 | 0.5 | 1 |
| 0.5 | 0.75 | 2 |
| 0.75 | 1.0 | 3 |
| 1.0 | 1.5 | 4 |
| 1.5 | 1.9 | 5 |
| 1.9 | 2.3 | 6 |
| 2.3 | 2.7 | 7 |
| 2.7 | 3.0 | 8 |
| 3.0 | — | 9 |

The term "percentage of excess" means a number computed to six decimal places on July 1 of each year obtained by dividing the excess of all contributions attributable to an employer over the sum of all benefits charged to an employer by the employer's average annual payroll. An employer's percentage of excess is a positive number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date exceeds the total benefits charged to such account for the same period. An employer's percentage of excess is a negative number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date is less than the total benefits charged to such account for the same period.

Each employer qualified for an experience rating shall be assigned a contribution rate for each rate year that corresponds to the employer's percentage of excess rank in the rate table effective for the rate year from the following rate tables. Each employer's percentage of excess rank shall be computed by listing all the employers by decreasing percentages of excess, from the highest positive percentage of excess to the highest negative percentage of excess and grouping the employers so listed into twenty-one separate ranks containing as nearly as possible four point seventy-six percent of the total taxable wages, excluding reimbursable employment wages, paid in covered employment during the first four completed calendar quarters immediately preceding the rate computation date. If an employer's taxable wages qualify the employer for two separate percentage of excess ranks the employer shall be afforded the percentage of excess rank assigned the lower contribution rate. Employers with identical percentages of excess shall be assigned to the same percentage of excess rank.

| Percent- age of Excess Rank | Approximate Cumulative Taxable Pay- roll Limit | Contribution Rate Tables | | | | | | | | | |
|--------------------------------------|---|--------------------------|-----|-----|-----|-----|----|----|----|----|---|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | |
| 1 | 4.8% | .5 | .2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2 | 9.5% | .9 | .6 | .5 | .3 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3 | 14.3% | 1.0 | .7 | .6 | .5 | .4 | 0 | 0 | 0 | 0 | 0 |
| 4 | 19.0% | 1.1 | .8 | .7 | .6 | .5 | .3 | 0 | 0 | 0 | 0 |
| 5 | 23.8% | 1.2 | .9 | .8 | .8 | .6 | .4 | .2 | 0 | 0 | 0 |
| 6 | 28.6% | 1.5 | 1.2 | 1.0 | .9 | .7 | .5 | .2 | .1 | 0 | 0 |
| 7 | 33.3% | 1.9 | 1.5 | 1.2 | 1.0 | .8 | .6 | .3 | .2 | .1 | 0 |
| 8 | 38.1% | 2.1 | 1.7 | 1.4 | 1.1 | .9 | .7 | .4 | .2 | .1 | 0 |
| 9 | 42.8% | 2.3 | 2.1 | 1.6 | 1.2 | 1.0 | .8 | .5 | .3 | .2 | 0 |

| | | | | | | | | | | |
|----|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 10 | 47.6% | 2.7 | 2.4 | 1.8 | 1.3 | 1.1 | .9 | .6 | .4 | .2 |
| 11 | 52.4% | 3.3 | 2.9 | 2.1 | 1.5 | 1.2 | 1.0 | .7 | .5 | .2 |
| 12 | 57.1% | 3.8 | 3.4 | 2.5 | 1.7 | 1.3 | 1.1 | .8 | .6 | .2 |
| 13 | 61.9% | 4.3 | 4.0 | 2.8 | 2.0 | 1.5 | 1.3 | .9 | .7 | .3 |
| 14 | 66.6% | 4.9 | 4.6 | 3.1 | 2.4 | 1.7 | 1.5 | 1.1 | .9 | .5 |
| 15 | 71.4% | 5.3 | 5.0 | 3.5 | 2.9 | 1.9 | 1.7 | 1.3 | 1.0 | .5 |
| 16 | 76.2% | 5.8 | 5.5 | 3.9 | 3.4 | 2.3 | 1.9 | 1.7 | 1.0 | .7 |
| 17 | 80.9% | 6.6 | 6.3 | 4.4 | 4.0 | 3.0 | 2.5 | 2.0 | 1.5 | .8 |
| 18 | 85.7% | 7.0 | 6.7 | 5.0 | 4.5 | 3.7 | 3.1 | 2.5 | 2.0 | 1.0 |
| 19 | 90.4% | 7.0 | 6.8 | 5.5 | 5.0 | 4.4 | 3.8 | 3.2 | 2.5 | 1.8 |
| 20 | 95.2% | 7.0 | 7.0 | 6.0 | 5.5 | 5.0 | 4.5 | 4.0 | 3.0 | 2.5 |
| 21 | 100.0% | 7.0 | 7.0 | 6.0 | 6.0 | 5.5 | 5.0 | 4.5 | 4.0 | 4.0 |

Notwithstanding any other provision of this chapter relating to limiting contribution rates to those specified in the contribution rate table, an employer which employs individuals for construction as defined by the department pursuant to rules, that has not qualified for an experience rating shall pay the maximum contribution rate assigned to any employer under this chapter, including the additional contributions required under this lettered paragraph of an employer with a negative balance in the employer's account, until such time as the employer has qualified for an experience rating. However, the employer shall not qualify for an experience rating until there have been twelve consecutive calendar quarters immediately preceding the rate computation date throughout which the employer's account has been chargeable with benefit payments.

On or before the fifth day of September immediately preceding the next following rate period the department shall make available to employers the table which will apply to the contribution rates in the following rate year.

During any rate year in which a rate table in rate tables three through nine is effective an employer assigned a contribution rate under this lettered paragraph is not required to contribute to the unemployment compensation trust fund if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the twenty-four calendar quarters immediately preceding the rate computation date for the rate year. If an employer is not required to contribute for a rate year to the trust fund under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is not required to contribute under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph.

During any rate year in which rate table one or two is effective an employer assigned a contribution rate under this lettered paragraph shall be required to contribute to the unemployment compensation trust fund at five-tenths of one percent, if the employer's percentage of excess is seven point five percent or greater for the rate year and the employer has not been charged with benefit payments for any time within the twenty-four calendar quarters immediately preceding the rate computation date for the rate year. If an employer is qualified for the five-tenths of one percent limitation on the employer's contribution rate for a rate year under this unnumbered paragraph but would be required to contribute for the next rate year under this lettered paragraph, the employer's contribution rate for the next rate year is either the employer's experience rate computed under this lettered paragraph or one and eight-tenths percent, whichever is less. For subsequent years, either the employer is qualified for the five-tenths of one percent limitation under this unnumbered paragraph or the employer's contribution rate is the employer's experience rate computed under this lettered paragraph.

Notwithstanding any other provision of this chapter relating to limiting contribution rates to those specified in the contribution rate table, if an employer qualified for an experience rating has a negative balance in the employer's account on the rate computation date and had a negative balance on the previous rate computation date, the employer shall contribute an additional one percent of taxable wages above the contribution rate assigned the employer by the effective rate contribution table. For each subsequent and consecutive rate computation date on which the employer still has a negative balance in the employer's account, the employer shall contribute an additional one percent of taxable wages. Beginning with the initial surcharge of one percent each subsequent and consecutive surcharge of one percent of taxable wages shall be cumulative, except that the cumulative surcharge shall not exceed an amount sufficient to make the employer's combined contribution rate equal to nine percent of taxable wages.

e. Based upon the formula above provided in this section the department shall fix the rate of contribution for each employer. The department shall notify the employer of the rate so fixed. An employer may appeal to the department for a revision of the rate of contribution so fixed within thirty days from the date of the notice to such employer. The department after such hearing may set aside its former determination or modify it and may grant the employer a new rate of contribution. The department shall notify the employer of this determination by certified mail. Judicial review of action of the department may be sought in accordance with the terms of the Iowa administrative procedure Act.

If an employer's account is charged with benefits in a calendar quarter prior to the rate computation date as the result of a decision allowing benefits and the decision is reversed after the rate computation date, the employer may appeal, within thirty days from the date of the contribution rate notice, for a recomputation of the rate. The department shall remove the benefit charges from the rate computation, recompute the contribution rate, and notify the employer of the recomputed contribution rate.

f. If an employer has not filed a contribution or payroll quarterly report, as required under section 96.11, subsection 7, for a calendar quarter which precedes the computation date and upon which the employer's rate of contribution is computed, the employer's average annual taxable payroll shall be computed by adding the taxable wages in the appropriate quarterly reports on file and dividing that sum by the number of years and quarters of years for which quarterly reports are on file.

If a delinquent quarterly report is received by November 15 immediately following the computation date the rate of contribution shall be recomputed by using the taxable wages in all the appropriate quarterly reports on file to determine the average annual taxable payroll.

If a delinquent quarterly report is received after November 15 following the computation date the rate of contribution shall not be recomputed, unless the rate is appealed in writing to the department under paragraph "e" of this subsection and the delinquent quarterly report received after November 15 is also submitted not later than thirty days after the department notifies the employer of the rate under paragraph "e" of this subsection.

4. *Determination and assessment of contributions.*

a. As soon as practicable and in any event within two years after an employer has filed reports, as required by the department pursuant to section 96.11, subsection 7, the department shall examine such reports and determine the correct amount of contributions due, and the amount so determined by the department shall be the contributions payable. If the contributions found due shall be greater than the amount theretofore paid, the notice with respect to the additional contributions, together with any interest and penalty, shall be sent by certified mail. A lien shall attach as provided in section 96.14, subsection 3, if the assessment is not paid or appealed within thirty days of the date of the notice of assessment.

b. If the department discovers from the examination of the reports or otherwise that wages payable for employment, or any part thereof, have not been listed in the reports, or that no reports were filed when due, or that reports have been filed showing contributions due but no contributions in fact have been paid, it may at any time within five years after the time such reports were due, determine the correct amount of contributions payable, together with interest as provided in this chapter. The amount so determined shall be assessed and a lien shall attach as provided in paragraph "a" of this subsection.

c. The certificate of the department to the effect that contributions have not been paid, that reports have not been filed, or that information has not been furnished, as required under the provisions of this chapter shall be prima-facie evidence thereof.

d. *Employer liability determination.* The department shall initially determine all questions relating to the liability of an employing unit or employer, including the amount of contribution, the rate of contribution, and successorship. A copy of the initial determination shall be sent by regular mail to the last address, according to the records of the department, of each affected employing unit or employer.

The affected employing unit or employer may appeal in writing to the department from the initial determination. An appeal shall not be entertained for any reason by the department unless the appeal is filed with the department within thirty days from the date on which the initial determination is mailed. If an appeal is not so filed, the initial determination shall with the expiration of the appeal period become final and conclusive in all respects and for all purposes.

A hearing on an appeal shall be conducted according to the regulations and rules promulgated by the department. A copy of the decision of the hearing officer shall be sent by regular mail to the last address, according to the records of the department, of each affected employing unit or employer.

The department's decision on the appeal shall be final and conclusive as to the liability of the employing unit or employer unless the employing unit or employer files an appeal for judicial review within thirty days after the date of mailing of the decision as provided in subsection 6 of this section.

5. *Revision of contributions.* An employer may appeal to the department for revision of the contributions and interest assessed against such employer at any time within thirty days from the date of the notice of the assessment of such contributions and interest. The department shall grant a hearing thereon and if, upon such hearing, it shall determine that the amount of contributions payable with interest thereon is incorrect, it shall revise the same according to the law and the facts and adjust the computation of the contributions and interest accordingly. The department shall notify the employer by certified mail of its findings.

6. *Judicial review.* Notwithstanding the terms of the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which such employer resides, or in which such employer's principal place of business is located, or in the case of a nonresident not maintaining a place of business in this state either in any county in which the wages payable for employment were earned or paid or in Polk county, within thirty days after the date of the notice to such employer notifying such employer of his or her rate of contribution, or of the department's determination as provided for in subsection 3 of this section or subsection 5 of this section.

The petitioner shall file with the clerk of said court a bond for the use of the respondent, with sureties approved by the clerk, in penalty to be fixed and approved by the clerk of said court. In no case shall the bond be less than fifty dollars conditioned that the petitioner shall perform the orders of the court. In all other respects, the judicial review shall be in accordance with the terms of the Iowa administrative procedure Act.

An appeal may be taken by the employer or the department to the supreme court of this state, irrespective of the amount involved.

7. *Jeopardy assessments.* If the department believes that the assessment or collection of contributions payable or benefits reimbursable will be jeopardized by delay, the department may immediately make an assessment of the estimated amount of contributions due or benefits reimbursable, together with all interest and penalty thereon as provided by this chapter, and demand payment thereof from the employer. If such payment is not made, a distress warrant may be issued or a lien filed against such employer immediately.

The department shall be permitted to accept a bond from the employer to satisfy collection until the amount of contributions legally due shall be determined. Such bond to be in an amount deemed necessary, but not more than double the amount of the contributions involved, and with securities satisfactory to the department.

8. *Financing benefits paid to employees of the state or political subdivisions of the state and their instrumentalities.*

a. A government entity which is an employer under the provisions of this chapter shall make benefit payments in a manner provided for a government reimbursable employer unless the employer elects to pay unemployment compensation benefits as a contributing employer. Government entities may establish a group account as provided in this section. Any election under this subsection to be a government contributing employer shall be effective for a minimum of one calendar year and may be changed if an election is made to be a government reimbursable employer prior to December 1 for a minimum of the following calendar year.

b. For the purposes of this subsection "government contributing employer" means a government entity electing to contribute for a minimum period of one calendar year at a contribution rate determined by the department in the following manner:

(1) For the calendar year beginning January 1, 1978, the contribution rate shall be one percent.

(2) For the calendar year beginning January 1, 1979, the contribution rate shall be one percent, provided that the department may reduce the contribution rate by fifteen hundredths of one percent or increase the contribution rate by not more than one percent. A rate adjustment shall be made only in an amount necessary to raise sufficient funds from contributing employers to finance an amount equal to the benefits for the previous calendar year and the amount by which the benefits of the preceding calendar year exceeded the employers' contributions.

(3) For the calendar year beginning January 1, 1980 the contribution rate shall be computed by the department immediately preceding the rate computation date by using the potential benefit charges of all government contributing employers for calendar year 1978 divided by the total of all taxable wages of government contributing employers for calendar year 1978.

(4) For the calendar year beginning January 1, 1981 and each subsequent year, each government contributing employer with at least eight consecutive calendar quarters immediately preceding the rate computation date throughout which the employer's account has been chargeable with benefit payments, shall be assigned a contribution rate under the provisions of this subparagraph. Contribution rates shall be assigned by listing all such government contributing employers by decreasing percentages of excess from the highest positive percentage of excess to the highest negative percentage of excess. The employers so listed shall be grouped into seven separate percentage of excess ranks each containing as nearly as possible one-seventh of the total taxable wages of government entities eligible to be assigned a rate under this subparagraph. The department shall annually calculate a base rate for each calendar year. The base rate is equal to the sum of the benefit payments charged to government contributing employers in the preceding calendar year at the time of the rate computation plus the difference between the total benefits less contributions made by government contributing employers since January 1, 1980 which sum is divided by the total taxable wages of government contributing employ-

ers for the preceding year rounded to the next highest one-tenth of a percentage point. If total contributions since January 1, 1980 exceed total benefit payments for government contributing employers, the difference shall be subtracted from the benefit payments of the preceding year. If benefits since January 1, 1980 exceed total contributions for government contributing employers the difference shall be added to the benefit payment of the preceding year. Excess contributions for the years 1978 and 1979 will be used to offset benefit payments in any year where total benefit payments exceed total contributions of government contributing employers. The contribution rate as a percentage of taxable wages of the employer shall be assigned as follows:

| If the percentage of excess rank is: | The contribution rate shall be: | Approximate cumulative taxable - payroll: |
|---|------------------------------------|--|
| 1 | Base Rate - 0.9 | 14.3 |
| 2 | Base Rate - 0.6 | 28.6 |
| 3 | Base Rate - 0.3 | 42.9 |
| 4 | Base Rate | 57.2 |
| 5 | Base Rate + 0.3 | 71.5 |
| 6 | Base Rate + 0.6 | 85.8 |
| 7 | Base Rate + 0.9 | 100.0 |

If a government contributing employer is grouped into two separate percentage of excess ranks, the employer shall be assigned the lower contribution rate of the two percentage of excess ranks. Notwithstanding the provisions of this subparagraph, a government contributing employer shall not be assigned a contribution rate less than one-tenth of one percent of taxable wages unless the employer has a positive percentage of excess greater than five percent. For the purposes of this subsection percentage of excess has the meaning provided in subsection 3, paragraph "d" of this section.

For the calendar year beginning January 1, 1981, government entities electing to be government contributing employers which are not otherwise eligible to be assigned a contribution rate under this subparagraph shall be assigned the base rate for the calendar year as a contribution rate for the calendar year.

A government entity electing to contribute at a fixed contribution rate in lieu to making payments as a government reimbursable employer may elect to finance benefits as a government reimbursable employer however the government entity shall be obligated to pay within a time period determined by the department to the fund the amount by which benefit payments for the government entity exceed contributions by the government entity on the effective date of the election.

c. For the purposes of this subsection "government reimbursable employer" means an employer paying to the department for the unemployment fund an amount equal to the sum of the regular benefits attributable to service in the employ of the employer and prior to January 1, 1979, plus one-half of the extended benefits paid for service in the employ of the employer, and beginning January 1, 1979, plus all of the extended benefits paid for service in the employ of the employer. Payments shall be made in accordance with the provisions of subsection 9, paragraph "b" of this section.

d. A state agency, board, commission or department, except a state board of regents institution or the state fair board, shall, after approval of the billing for a governmental reimbursable employer as provided in subsection 9, paragraph "b" of this section, submit the billing to the state comptroller. The state comptroller shall pay the approved billings out of any funds in the state treasury not otherwise appropriated. A state agency, board, commission or department shall reimburse the state comptroller out of any revolving, special, trust or federal fund from which all

or a portion of the billing can be paid, for payments made by the state comptroller on behalf of the agency, board, commission or department.

9. *Financing benefits paid to employees of nonprofit organizations.* Benefits paid to employees of nonprofit organizations or of any state-owned hospital or institution of higher education shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection and section 96.19, a nonprofit organization is an organization described in the U. S. Internal Revenue Code, 26 U.S.C. 501(c)(3), which is exempt from income tax under 26 U.S.C. 501(a) of such Code.

a. Any state-owned hospital or institution of higher education, which, pursuant to section 96.19, subsection 5, paragraph "h", or any nonprofit organization which, pursuant to section 96.19, subsection 5, paragraph "i", is, or becomes, subject to this chapter on or after January 1, 1972, shall pay contributions under the provisions of subsections 1, 2, and 3 of this section, unless it elects, in accordance with this paragraph, to pay to the department for the unemployment fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(1) Any nonprofit organization or any state-owned hospital or institution of higher education which is, or becomes, subject to this chapter on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years commencing January 1, 1972, provided it files with the department a written notice of its election within the thirty-day period immediately following such date or within a like period immediately following the effective date of this Act*, whichever occurs later.

(2) Any nonprofit organization or any state-owned hospital or institution of higher education, which becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years following the date on which such subjectivity begins by filing a written notice of its election with the department not later than thirty days immediately following the date of the determination of such subjectivity.

(3) Any nonprofit organization or any state-owned hospital or institution of higher education, which makes an election in accordance with subparagraphs (1) or (2) of this paragraph shall continue to be liable for payments in lieu of contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(4) Any nonprofit organization or any state-owned hospital or institution of higher education, which has been paying contributions under this chapter for a period on or after January 1, 1972, may change to a reimbursable basis by filing with the department not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(5) The department may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(6) The department, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of subsections 5 and 6 of this section.

b. Payments in lieu of contributions shall be made in accordance with the following:

(1) At the end of each calendar quarter, or at the end of any other period as determined by the department, the department shall bill each nonprofit organization which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization. Unless federal funds are otherwise provided, at the end of each calendar quarter or other period determined by the department, the department shall also bill each governmental entity the amount of regular plus extended benefits owed as a governmental reimbursable employer for benefits paid during the quarter or period for such organization electing governmental reimbursable status including any benefits paid for a government entity for claims filed while the government entity was a contributing employer prior to an election to become a government reimbursable employer which were paid during the quarter or period.

(2) Payment of any bill rendered shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (4) of this paragraph.

(3) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(4) The amount due specified in any bill from the department shall be conclusive on the organization unless, not later than fifteen days following the date the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the department setting forth the grounds for such application. The department shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than sixty days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the district court pursuant to subsection 6 of this section.

(5) The provisions for collection of contributions under section 96.14 shall be applicable to payments in lieu of contributions.

10. *Provision of bond or other security.* Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election to execute and file with the department a surety bond approved by the department or it may elect instead to deposit with the department money or securities. The amount of such bond or deposit shall be determined in accordance with the provisions of this subsection.

a. The amount of the bond or deposit required by this subsection shall be equal to two and seven-tenths percent of the organization's total taxable wages paid for employment for the four calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a bond, or the biennial anniversary of the effective date of election in the case of a deposit of money or securities, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the department.

b. Any bond deposited under this subsection shall be in force for a period of not less than two taxable years and shall be renewed with the approval of the department, at such times as the department may prescribe, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The department shall require adjustments to be made in a previously filed bond as it deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty days of the date notice

of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided for in section 96.14 shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

c. Any deposit of money or securities in accordance with this subsection shall be retained by the department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under this paragraph by a nonprofit organization or sell the securities it has so deposited to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in section 96.14. The department shall require the organization within thirty days following any deduction from a money deposit or sale of deposited securities under the provisions of this paragraph to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, it determines that an adjustment is necessary, it shall require the organization to make additional deposit within thirty days of written notice of its determination or shall return to it such portion of the deposit as it no longer considers necessary, whichever action is appropriate. Disposition of income from securities held in escrow shall be governed by the applicable provisions of the Code.

11. *Authority to terminate elections.* If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, the department may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective; provided, that the department may extend for good cause the applicable filing, deposit, or adjustment period by not more than thirty days.

12. *Allocation of benefit cost.* Each employer that is liable for payments in lieu of contributions shall pay to the department for the fund the amount of regular benefits and unless a government entity plus the amount of one-half of extended benefits paid during each quarter that are attributable to service in the employ of such employer. A government entity shall make benefit payments in the amounts provided for a government reimbursable employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payment shall be payable each quarter by the base period employers in inverse chronological order in which the employment of such individual occurred. Provided, that the amount of any such employer's liability in any calendar quarter shall not exceed the amount of such individual's wage credits and unless a government entity plus one-half the amount of extended benefits based on employment with such employer during such quarter of the base period. A government entity's liability in any calendar quarter shall not exceed the amount of the individual's wage credits plus that amount of extended benefits a government entity is required to pay as a government reimbursable employer.

13. *Group accounts.* Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subsection 8 and subsection 9, paragraph "a", of this section may file a joint application to the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers.

Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than one year and thereafter until terminated at the discretion of the department or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The department shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection by members of the group and the time and manner of such payments.

14. *Nonprofit organization election.*

a. Notwithstanding any provisions in subsection 9 of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section and, pursuant to subsection 9 of this section, elects, before April 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization.

b. A nonprofit organization or group not required to be covered employment prior to January 1, 1978, that paid contributions as an employer prior to October 20, 1976, and which elects within thirty days after January 1, 1978, to make payments in lieu of contributions shall not be required to make any such payment for regular or extended benefits paid after its election until the total amount of benefits equal the amount of the positive balance in the experience rating account of such organization.

15. *Temporary emergency tax.* If on the first day of the third month in any calendar quarter, the department has an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, or is projected to have an outstanding balance of accruing federal interest for that calendar quarter, the director shall collect a uniform temporary emergency surcharge for that calendar quarter, retroactive to the beginning of that calendar quarter. The surcharge shall be a percentage of employer contribution rates and shall be set at a uniform percentage, for all employers subject to the surcharge, necessary to pay the interest accrued on the moneys advanced to the department by the federal government, and to pay any additional federal interest which will accrue for the remainder of that calendar quarter. The surcharge shall apply to all employers except government entities, nonprofit organizations, and employers assigned a zero contribution rate. The director shall prescribe the manner in which the surcharge will be collected. Interest shall accrue on all unpaid surcharges under this subsection at the same rate as on regular contributions and shall be collectible in the same manner. The surcharge shall not affect the computation of regular contributions under this chapter.

A special fund to be known as the temporary emergency tax fund is created in the state treasury. The special fund is separate and distinct from the unemployment

compensation trust fund. All contributions collected from the temporary emergency tax shall be deposited in the special fund. The special fund shall be used only to pay interest accruing on advance moneys received from the federal government for the payment of unemployment compensation benefits.

16. *Advance payment.* If on March 1, 1983, the total unemployment compensation trust funds available for the payment of benefits are less than ten times the average total weekly benefits paid during four consecutive weeks of January and February, 1983, the department may require an advance payment of all or a portion of the actual or projected employer contributions due for the calendar quarter ending March 31, 1983, payable on March 31, 1983.

(83 Acts, ch 190, § 13 - 20, 27) HF 637

Amendments to contribution rate table one, the proviso following the contribution rate tables, the paragraph relating to the five-tenths of one percent limitation, and the last unnumbered paragraph, all in subsection 3, paragraph d, take effect July 1, 1983, and apply to calendar year 1984 and subsequent years; further applicability rules in 83 Acts, ch 190, § 27(5) (HF 637)

Amendments to contribution rate table two, and striking language relating to the applicable contribution rate table for calendar year 1983, both in subsection 3, paragraph d, and the amendment to subsection 15 take effect June 29, 1983, retroactively to January 1, 1983; special contribution rates for 1983, effective January 1, 1983, in 83 Acts, ch 190, § 15 (HF 637)

New paragraph added to subsection 3, paragraph e takes effect June 29, 1983, and applies to all new or pending claims.

Subsection 3, paragraph d amended and NEW unnumbered paragraph added to paragraph e, and subsection 15 amended

*64GA, ch 113

96.10 Department of job service. There is established an Iowa department of job service. The chief executive officer of the department is the director of job service who shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The director shall be selected solely on the ability to administer the duties and functions granted to the department and shall devote full time to the duties of director. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

The salary of the director shall be set by the general assembly.

The director of the department may establish, consolidate, and abolish divisions of the department when necessary for the efficient performance of the department.

(83 Acts, ch 101, § 8) SF 136

Unnumbered paragraph 3 amended

96.11 Powers, rules and personnel.

1. *Duties and powers of director.* It shall be the duty of the director to administer this chapter; and the director shall have power and authority to adopt, amend, or rescind pursuant to chapter 17A such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the director deems necessary or suitable to that end. Not later than the fifteenth day of December of each year, the director shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make such recommendations for amendments to this chapter as the director deems proper. Such report shall include a balance sheet of the moneys in the fund. Whenever the director believes that a change in contribution or benefits rates will become necessary to protect the solvency of the fund, the director shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

2. *General and special rules.* Each employer shall post and maintain printed statements of all rules of the department in places readily accessible to individuals in the employer's service, and shall make available to each such individual at the time the individual becomes unemployed a printed statement of such rules relating to the filing of claims for benefits. Such printed statements shall be supplied by the department to each employer without cost to him.

3. *Publication.* The director shall cause to be printed for distribution to the public the text of this chapter, the department's general rules, its annual reports to the governor, and any other material the director deems relevant and suitable and shall furnish the same to any person upon application therefor.

4. *Personnel.* The director shall provide for the employment of such personnel as are necessary to carry out the functions of the department. Personnel shall be employed under the provisions of chapter 19A. The director, a deputy director, a confidential secretary, the members of the appeal board, an administrative officer under the appeal board, and a secretary for each member if deemed necessary, shall be exempt from the merit system under the provisions of section 19A.3. If necessary to carry out its duties under this chapter, the appeal board shall employ an administrative officer whose qualifications and job responsibilities are determined by the appeal board.

The director may bond any employee handling moneys or signing checks.

5. *Advisory council.*

a. There is established a job service advisory council composed of nine members appointed by the governor subject to confirmation by the senate. Three members shall be appointed to represent employees; three members shall be appointed to represent employers; and three members shall be appointed to represent the general public. Not more than five members of the advisory council shall be members of the same political party. The members shall serve six-year staggered terms beginning and ending as provided in section 69.19. Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel, incurred for official meetings of the advisory council from funds appropriated to the department.

Vacancies shall be filled for the unexpired term in the same manner as the original appointment was made.

b. The advisory council shall meet with the director at least quarterly to discuss problems relating to the administration of this chapter and may meet more often upon the call of the director.

The advisory council annually shall elect a chairperson.

6. *Employment stabilization.* The director with the advice and aid of the advisory council, and through the appropriate divisions of the department, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

7. *Records and reports.*

a. Each employing unit shall keep true and accurate work records, containing such information as the department may prescribe. Such records shall be open to inspection and be subject to being copied by the department or its authorized representatives at any reasonable time and as often as necessary. The director or a duly authorized representative of the department may require from any employing unit any sworn or unsworn reports, with respect to persons employed by the employing unit, which the director deems necessary for the effective administration of this chapter.

b. (1) The department shall hold confidential the information obtained from an employing unit or individual in the course of administering this chapter and the initial determinations made by the department's representative under section 96.6, subsection 2 as to the benefit rights of an individual. The department shall not disclose or open this information for public inspection in a manner that reveals the identity of the individual or employing unit, except as provided in subparagraph (3) of this paragraph and paragraph "c" of this subsection.

(2) A report or statement, whether written or verbal, made by a person to the department or to a person administering this law is a privileged communication. A person is not liable for slander or libel on account of such a report or statement.

(3) Information obtained from an employing unit or individual in the course of administering this chapter and initial determinations made by the department's representative under section 96.6, subsection 2 as to benefit rights of an individual shall not be used in any action or proceeding except in a contested case proceeding or judicial review under the provisions of chapter 17A. Information in the department's possession that may affect a claim for benefits or a change in an employer's rating account shall be made available to the affected parties or their legal representatives. Such information may be used by the affected parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim.

c. Subject to conditions as the department by rule prescribes, information obtained from an employing unit or individual in the course of administering this chapter and initial determinations made by the department's representative under section 96.6, subsection 2 as to benefit rights of an individual may be made available to any of the following:

(1) An agency of this or any other state, or a federal agency responsible for the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

(2) The bureau of internal revenue of the United States department of the treasury.

(3) The Iowa department of revenue.

(4) The social security administration of the United States department of health, education and welfare.

(5) An agency of this or any other state or a federal agency responsible for the administration of public works or the administration of public assistance to unemployed workers.

(6) Colleges, universities and public agencies of this state for use in connection with research of a public nature, provided the department does not reveal the identity of any individual or employing unit.

Information released by the department shall only be used for purposes consistent with the purposes of this chapter.

d. Upon request of an agency of this or another state or of the federal government which administers or operates a program of public assistance or child support enforcement under either federal law or the law of this or another state, or which is charged with a duty or responsibility under any such program, and if that agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under this section, then the department shall provide to the requesting agency, with respect to any named individual specified, any of the following information:

(1) Whether the individual is receiving, has received, or has made application for unemployment compensation under this chapter.

(2) The period, if any, for which unemployment compensation was payable and the weekly rate of compensation paid.

(3) The individual's most recent address.

(4) Whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused, including duties, conditions of employment, and the rate of pay.

(5) Wage information. Paragraph "g" does not apply to information released under this paragraph.

e. The department may require an agency that is provided information under this section to reimburse the department for the costs of furnishing the information.

f. Any employee of the department or member of the appeal board who violates any provision of this section shall be guilty of a serious misdemeanor.

g. Information subject to the confidentiality of this section shall not be made available to any authorized agency prior to notification in writing to the individual involved, except in criminal investigations.

8. *Oaths and witnesses.* In the discharge of the duties imposed by this chapter, the chairman of the appeal board and any duly authorized representative of the department shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this chapter.

9. *Subpoenas.* In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the department, or any member or duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the department or any member or duly authorized representative thereof to produce evidence if so ordered or to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by said court as a contempt thereof.

10. *Protection against self-incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the department, or the appeal board, or in obedience to a subpoena in any cause or proceeding provided for in this chapter, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty for forfeiture; but no individual shall be prosecuted or subjected to any penalty of forfeiture for or on account of any transaction, matter, or thing concerning which the individual is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

11. *State-federal co-operation.* In the administration of this chapter, the department shall co-operate with the United States department of labor to the fullest extent consistent with the provisions of this chapter, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relates to unemployment compensation, the federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

In the administration of the provisions of section 96.29 which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the department shall take such action as may be necessary to insure that the provisions are so interpreted and applied as to meet the requirements of such federal Act as interpreted by the United States department of labor, and to secure to this state the full reimbursement of the federal share of extended benefits paid under this chapter that are reimbursable under the federal Act.

The department shall make such reports, in such form and containing such information as the United States department of labor may from time to time require, and shall comply with such provisions as the United States department of labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the United States department of labor governing the expenditures of such sums as may be allotted and paid to this state under Title III of the Social Security Act for the purpose of assisting in administration of this chapter.

The department may make its records relating to the administration of this chapter available to the railroad retirement board, and may furnish the railroad

retirement board such copies thereof as the railroad retirement board deems necessary for its purposes. The department may afford reasonable co-operation with every agency of the United States charged with the administration of any unemployment insurance law. The railroad retirement board or any other agency requiring such services and reports from the department shall pay the department such compensation therefor as the department determines to be fair and reasonable.

12. *Destruction of records.* The Iowa department of job service may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the department and are deemed by the director and the state records commission to be no longer necessary to the proper administration of this chapter. Wage records of the individual worker or transcripts therefrom may be destroyed or disposed of, if approved by the state records commission, two years after the expiration of the period covered by such wage records or upon proof of the death of the worker. Such destruction or disposition shall be made only by order of the director in consultation with the state records commission. Any moneys received from the disposition of such records shall be deposited to the credit of the employment security administration fund, subject to rules promulgated by the department.

13. *Purging uncollectible overpayments.* Notwithstanding any other provision of this chapter, the department shall review all outstanding overpayments of benefit payments annually. The department may determine as uncollectible and purge from its records any remaining unpaid balances of outstanding overpayments which are ten years or older from the date of the overpayment decision.

(83 Acts, ch 190, § 21, 27) HF 637

Amendment to subsection 4 takes effect July 1, 1983

Subsection 4, unnumbered paragraph 1 amended

96.19 Scope. As used in this chapter, unless the context clearly requires otherwise:

1. *"Annual payroll"*. The term "annual payroll" as used in subsection 3 "d" of section 96.7 means the total amount of taxable wages paid by an employer for insured work during the period of four consecutive calendar quarters ending on June 30 of each year, and the term "average annual payroll" as used in said subsection means the average of the "annual payrolls" of an employer for the last three periods of four consecutive calendar quarters immediately preceding the computation date. Except that for an employer who qualifies on any computation date for a computed rate on the basis of less than twelve consecutive calendar quarters of chargeability immediately preceding the computation date, the term average annual payroll shall be the average of the annual payrolls for the last two periods of four consecutive calendar quarters immediately preceding the computation date.

2. *"Benefits"* means the money payments payable to an individual, as provided in this chapter, with respect to his or her unemployment.

3. *"Contributions"* means the money payments to the state unemployment compensation fund required by this chapter.

4. *"Employing unit"* means any individual or type of organization, including this state and its political subdivisions, state agencies, boards, commissions, and instrumentalities thereof, any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless

the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection 5 or section 96.8, subsection 3, the employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of subsection 5 or section 96.8, subsection 3, shall alone be liable for the contributions measured by wages payable to individuals in his or her employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection 5 or section 96.8, subsection 3, may recover the same from such contractor or subcontractor, except as any contractor or subcontractor who would in the absence of the foregoing provisions be liable to pay said contributions, accepts exclusive liability for said contributions under an agreement with such employer made pursuant to general rules of the commission. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of such work, and provided, further, that such employment was for a total of not less than eight hours in any one calendar week.

5. "Employer" means:

a. For purposes of this chapter with respect to any calendar year after December 31, 1971, any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars or more excluding wages paid for domestic service or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual irrespective of whether the same individual was in employment in each such day. An employing unit treated as a domestic service employer shall not be treated as an employer with respect to wages paid for service other than domestic service unless such employing unit is treated as an employer under this paragraph or as an agricultural labor employer.

b. Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade, or business, or substantially all of the assets thereof, of another employing unit which at the time of such acquisition was an employer subject to this chapter, or which acquired a part of the organization, trade, or business of another employing unit which at the time of such acquisition was an employer subject to this chapter. Provided, that such other employing unit would have been an employer under paragraph "a" of this subsection, if such part had constituted its entire organization, trade, or business.

c. Any employing unit which acquired the organization, trade, or business, or substantially all the assets of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph "a" of this subsection.

d. Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph "a" of this subsection.

e. Any employing unit which, having become an employer under paragraph "a", "b", "c", "d", "f", "g", "h" or "i" has not, under section 96.8, ceased to be an employer subject to this chapter.

f. For the effective period of its election pursuant to section 96.8, subsection 3, any other employing unit which has elected to become fully subject to this chapter.

g. Any employing unit not an employer by reason of any other paragraph of this subsection for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the federal Unemployment Tax Act (26 U.S.C. 3301-3308), is required, pursuant to such Act, to be an "employer" under this chapter. Provided, however, that if an employer subject to contributions solely because of the terms of this subsection shall establish proper proof to the satisfaction of the department that his or her employees have been and will be duly covered and insured under the unemployment compensation law of another jurisdiction such employer shall not be deemed an employer and such services shall not be deemed employment under this chapter.

h. After December 31, 1971, this state or a state instrumentality and after December 31, 1977, a government entity unless specifically excluded from the definition of employment.

i. Any employing unit for which service in employment, as defined in subsection 6, paragraph "a", subparagraph (5), is performed after December 31, 1971.

j. For purposes of paragraphs "a" and "i", employment shall include service which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into in accordance with subsection 6, paragraph "d", by the department and an agency charged with the administration of any other state or federal unemployment compensation law.

k. For purposes of paragraphs "a" and "i", if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week.

l. An employing unit employing agricultural labor after December 31, 1977, if the employing unit:

(1) Paid during any calendar quarter in the calendar year or the preceding calendar year wages of twenty thousand dollars or more for agricultural labor, or

(2) Employed on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, at least ten individuals in employment in agricultural labor for some portion of the day.

m. An employing unit employing after December 31, 1977, domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and with respect to any calendar year, any employing unit who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of one thousand dollars or more for such service.

6. "Employment".

a. Except as otherwise provided in this subsection "employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Employment also means any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1977, by:

(1) Any officer of a corporation. Provided that the term "employment" shall not include such officer if the officer is a majority stockholder and the officer shall not be considered an employee of the corporation unless such services are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or such services are required to be covered under this chapter of the Code, as a condition to receipt of a full tax credit against the tax imposed by the federal Unemployment Tax Act (26 U.S.C. 3301-3309), or

(2) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee, or

(3) Any individual other than an individual who is an employee under subparagraphs (1) or (2) who performs services for remuneration for any person as an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry cleaning services for his or her principal; as a traveling or city salesman, other than as an agent driver or commission driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

Provided, that for purposes of paragraph "a", subparagraph (3), the term "employment" shall include services performed after December 31, 1971, only if:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(b) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

(c) The services are not in the nature of single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(4) Service performed after December 31, 1971, by an individual in the employ of this state or any of its wholly owned instrumentalities and after December 31, 1977, service performed by an individual in the employ of a government entity unless specifically excluded from the definition of employment for a government entity.

(5) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization, but only if the service is excluded from "employment" as defined in the federal Unemployment Tax Act (26 U.S.C. 3301-3309) solely by reason of section 3306(c)(8) of that Act.

(6) For the purposes of subparagraphs (4) and (5), the term "employment" does not apply to service performed:

(a) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(c) In the employ of a nonpublic school which is not an institution of higher education prior to January 1, 1978.

(d) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work.

(e) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(f) Prior to January 1, 1978 for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(g) In the employ of a governmental entity, if such service is performed by an individual in the exercise of his or her duties as an elected official; as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

as a member of the state national guard or air national guard; as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or in a position which, pursuant to the state law, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position which ordinarily does not require duties of more than eight hours per week.

(7) (a) A person in agricultural labor when such labor is performed for an employing unit which during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; or on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor for some portion of the day ten or more individuals, excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; and such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. s. 1184(c), 1101(a)(15)(H) (1976).

(b) For purposes of this subparagraph, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other employing unit shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not otherwise in employment as defined in this subsection.

For purposes of this subparagraph, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other employing unit and who is not treated as an employee of such crew leader as described above, such other employing unit and not the crew leader shall be treated as the employer of such individual; and such other employing unit shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader either on his or her behalf or on behalf of such other employing unit for the agricultural labor performed for such other employing unit.

For purposes of this subsection, the term "crew leader" means an employing unit which furnishes individuals to perform agricultural labor for any other employing unit; pays, either on the crew leader's behalf or on behalf of such other employing unit, the individuals so furnished by the crew leader for the agricultural labor performed by them; and has not entered into a written agreement with such other employing unit under which such individual is designated as an employee of such other employing unit.

(8) A person performing after December 31, 1977 domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for an employing unit who paid cash remuneration of one thousand dollars or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year.

b. The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

- (1) The service is localized in this state, or
- (2) The service is not localized in any state but some of the service is performed in this state and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state, or

(3) The service is performed outside the United States, except in Canada, after December 31, 1971, by a citizen of the United States in the employ of an American employer, other than service which is deemed "employment" under the provisions of subparagraphs (1) and (2) or the parallel provisions of another state law, or service performed after December 31 of the year in which the United States secretary of labor approved the first time the unemployment compensation law submitted by the Virgin Islands, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States but the employer is an individual who is a resident of this state, or the employer is a corporation which is organized under the laws of this state, or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) None of the criteria of subdivisions (a) and (b) of this subparagraph is met, but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the law of this state.

(d) An "American employer", for purposes of this subparagraph, means a person who is an individual who is a resident of the United States or a partnership if two-thirds or more of the partners are residents of the United States, or a trust, if all of the trustees are residents of the United States, or a corporation organized under the laws of the United States or of any state.

(4) Notwithstanding the provisions of subparagraphs (1), (2), and (3), all service performed after December 31, 1971, by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within and without the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state, and

(5) Notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which, as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act (26 U.S.C. 3301-3308), is required to be covered under this chapter.

c. Services performed within this state but not covered under paragraph "b" of this subsection shall be deemed to be employment subject to this chapter if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

d. Services not covered under paragraph "b" of this subsection, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the department approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

e. Service shall be deemed to be localized within a state if:

(1) The service is performed entirely within such state, or

(2) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

f. Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the department that such individual has been and will continue to be free from control

or direction over the performance of such services, both under his contract of service and in fact.

g. The term "employment" shall not include:

(1) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States; provided, however, that the general language just used shall not include any such instrumentality of the United States after Congress has, by appropriate legal action, expressly permitted the several states to require such instrumentalities to make payments into an employment fund under a state unemployment compensation law; and all such instrumentalities so released from the constitutional immunity to make the contributions, imposed by this chapter shall, thereafter, become subject to all the provisions of said chapter, and such provisions shall then be applicable to such instrumentalities and to all services performed for such instrumentalities in the same manner, to the same extent and on the same terms as are applicable to all other employers, employing units, individuals and services. Should the social security board, acting under section 1603 of the federal internal revenue code, fail to certify the state of Iowa for any particular calendar year, then the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided for in section 96.14, subsection 5, which section provides for the refunding of contributions erroneously collected.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; provided, that the department is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in section 96.11, subsection 2 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this chapter.

(3) *Agricultural labor.* For purposes of this chapter, the term "agricultural labor" means any service performed prior to January 1, 1972, which was agricultural labor as defined in this subparagraph prior to such date, provided that after December 31, 1977, this subparagraph shall not exclude from employment agricultural labor specifically included as agricultural labor under the definition of employment in this subsection, but shall otherwise include remunerated service performed after December 31, 1971:

(a) On a farm in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(c) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended [46 Stat. 1550, Sec. 3, 12 U.S.C. 1141j], or in connection with ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(d) (i) In the employ of the operator of a farm in handling, planting, drying,

packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one half of the commodity with respect to which such service is performed;

(ii) In the employ of a group of operators of farms (or a co-operative organization of which such operators are members) in the performance of service described in (i) of subdivision (d) of this subparagraph, but only if such operators produced more than one half of the commodity with respect to which such service is performed;

(iii) The provisions of (i) and (ii) of subdivision (d) of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business.

(f) The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(4) Domestic service in a private home prior to January 1, 1978, and after December 31, 1977, domestic service in a private home not covered as domestic service under the definition of employment.

(5) Service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of eighteen in the employ of his or her father or mother.

(6) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university or by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance.

Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution, which combines academic instruction with work experience, if the service is an integral part of the program and the institution has so certified to the employer, except that this subparagraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

Service performed in the employ of a hospital if such service is performed by a patient of the hospital.

(7) Services performed by an individual, who is not treated as an employee, for a person who is not treated as an employer, under either of the following conditions:

(a) The services are performed by the individual as a salesperson and as a licensed real estate agent; substantially all of the remuneration for the services is directly related to sales or other output rather than to the number of hours worked; and the services are performed pursuant to a written contract between the individual and the person for whom the services are performed, which provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

(b) The services are performed by an individual engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis

or a deposit-commission basis, for resale by the buyer or another person in the home or in a place other than a permanent retail establishment, or engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in a place other than a permanent retail establishment; substantially all of the remuneration for the services is directly related to sales or other output rather than to the number of hours worked; and the services are performed pursuant to a written contract between the individual and the person for whom the services are performed, which provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

7. "*Employment office*" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

8. "*Fund*" means the unemployment compensation fund established by this chapter, to which all contributions required and from which all benefits provided under this chapter shall be paid.

9. "*Total and partial unemployment*".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him or her and during which he or she performs no services.

b. An individual shall be deemed partially unemployed in any week in which, while employed at his or her then regular job, he or she works less than the regular full-time week and in which he or she earns less than his or her weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which he or she, having been separated from his or her regular job, earns at odd jobs less than his or her weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

10. "*State*" includes, in addition to the states of the United States, the District of Columbia, Canada, Puerto Rico, and the Virgin Islands.

11. "*Unemployment compensation administration fund*" means the unemployment compensation administration fund established by this chapter, from which administration expenses under this chapter shall be paid.

12. "*Wages*" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rules prescribed by the department. Wages payable to an individual for insured work performed prior to January 1, 1941, shall, for the purposes of sections 96.3, 96.4, and this section, be deemed to be wages paid within the calendar quarter with respect to which such wages were payable.

The term wages shall not include:

a. The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to or on behalf of an employee or any of his or her dependents under a plan or system established by an employer which makes provisions for his or her employees generally, or for his or her employees generally and their dependents, or for a class, or classes of his or her employees, or for a class or classes of his or her employees and their dependents, on account of retirement, sickness, accident disability, medical or hospitalization expense in connection with sickness or accident disability, or death.

b. Any payment paid to an employee, including any amount paid by any employ-

er for insurance or annuities or into a fund to provide for any such payment, on account of retirement.

c. Any payment on account of sickness or accident disability, or medical or hospitalization expense in connection with sickness or accident disability made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

d. Remuneration for agricultural labor paid in any medium other than cash.

13. "*Week*" means such period or periods of seven consecutive calendar days ending at midnight, or as the department may by regulations prescribe.

14. "*Weekly benefit amount*". An individual's "weekly benefit amount" means the amount of benefits he or she would be entitled to receive for one week of total unemployment. An individual's weekly benefit amount, as determined for the first week of his or her benefit year, shall constitute his or her weekly benefit amount throughout such benefit year.

15. "*Benefit year*". The term "benefit year" means a period of one year beginning with the day with respect to which an individual filed a valid claim for benefits. Any claim for benefits made in accordance with section 96.6, subsection 1, shall be deemed to be a valid claim for the purposes of this subsection if the individual has been paid wages for insured work required under the provisions of this chapter.

16. "*Base period*" means the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which he or she filed a valid claim.

17. "*Calendar quarter*" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the department may by regulation prescribe.

18. "*Customary self-employment*". An employee shall be deemed to be engaged in "his or her customary self-employment", as said words are used in section 96.5, during the periods in which he or she customarily devotes the major portion of his or her working time and efforts: (a) To his or her individual enterprises and interests; or (b) to her duties as housewife; or (c) to attending classes and preparing his or her studies for any school or college.

19. "*Insured work*" means employment for employers.

20. "*Taxable wages*". For the purposes of section 96.7, subsections 1 and 2 and for the period beginning January 1, 1972 and ending December 31, 1977, taxable wages shall not include that part of remuneration which, after remuneration equal to four thousand two hundred dollars has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, except that for the calendar years 1976 and 1977 the remuneration figure shall be six thousand dollars.

For the purposes of this subsection, the term "employment" includes service constituting employment under any unemployment compensation law of another state provided such other state will consider service performed in Iowa in determining the contribution base.

For the calendar year beginning January 1, 1978, and each subsequent calendar year, taxable wages upon which an employer shall be required to contribute based upon remuneration which has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year shall be equal to the greater of:

a. Sixty-six and two-thirds percent of the statewide average annual wage paid

to employees in insured work rounded to the next highest multiple of one hundred dollars based upon the calculation made during the previous calendar year used to determine the maximum weekly benefit amount, or

b. That portion of remuneration subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

However, the amount of taxable wages otherwise determined under this subsection shall be increased by six hundred dollars for calendar year 1984, by eleven hundred dollars for calendar year 1985, and by sixteen hundred dollars for calendar year 1986 and subsequent calendar years.

21. "*Computation date*". The computation date for contribution rates shall be July 1 of that calendar year preceding the calendar year with respect to which such rates are to be effective.

22. "*Hospital*" means an institution which has been licensed, certified, or approved by the Iowa department of health as a hospital.

23. "*Institution of higher education*" means an educational institution which admits as regular students individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate; is legally authorized in this state primarily to provide a program of education beyond high school; provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and is a public or other nonprofit institution.

24. "*United States*" for the purposes of this section includes the states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

25. "*Extended benefit period*" means a period which begins with the third week after a week for which there is a state "on" indicator, and ends with either of the following weeks, whichever occurs later:

a. The third week after the first week for which there is a state "off" indicator.

b. The thirteenth consecutive week of such period.

However, an extended benefit period shall not begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

26. Repealed by 82 Acts, ch 1030, § 4, and reserved.

27. Repealed by 82 Acts, ch 1030, § 4, and reserved.

28. There is a state "on" indicator for a week if the rate of insured unemployment under the state law for the period consisting of the week and the immediately preceding twelve weeks equaled or exceeded five percent and equaled or exceeded one hundred twenty percent of the average of the rates for the corresponding thirteen-week period ending in each of the two preceding calendar years.

29. There is a state "off" indicator for a week if, for the period consisting of the week and the immediately preceding twelve weeks, the rate of insured unemployment under the state law was less than five percent, or less than one hundred twenty percent of the average of the rates for thirteen weeks ending in each of the two preceding calendar years, except that, notwithstanding any such provision of this subsection, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.

30. "*Rate of insured unemployment*", for purposes of determining state "on" indicator and state "off" indicator, means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in Iowa for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the department on the basis of its reports to the United States secretary of labor, by the average monthly insured employment covered under

this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

31. *"Regular benefits"* means benefits payable to an individual under this or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen or women pursuant to 5 U.S.C., chapter 85) other than extended benefits.

32. *"Extended benefits"* means benefits (including benefits payable to federal civilian employees and to ex-servicemen or women pursuant to 5 U.S.C., chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his or her eligibility period.

33. *"Eligibility period"* of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

34. *"Exhaustee"* means an individual who, with respect to any week of unemployment in his or her eligibility period has received, prior to such week, all of the regular benefits that were available to him or her under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen or women under 5 U.S.C., chapter 85) in his or her current benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to him or her, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his or her benefit year he or she may subsequently be determined to be entitled to add regular benefits, or:

a. His or her benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which he or she could establish a new benefit year that would include such week, and

b. He or she has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and he or she has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee.

35. *"State law"* means the unemployment insurance law of any state, approved by the United States secretary of labor under 26 U.S.C. 3304.

36. *"Domestic service"* includes service for an employing unit in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.

37. *"Educational institution"* means one in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher. It is approved, licensed or issued a permit to operate as a school by the state department of public instruction or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation.

38. *"Government entity"*, means a state, a state instrumentality, a political subdivision or a political subdivision instrumentality, or a combination of one or more of the preceding.

(83 Acts, ch 190, § 22 - 24, 26, 27) HF 637

Amendment to subsection 6, paragraph g, subparagraph (6), unnumbered paragraph 2 takes effect July 1, 1983;

new subparagraph (7) added to subsection 6, paragraph g takes effect January 1, 1984; and new unnumbered paragraph at end of subsection 20 takes effect July 1, 1983, and applies to calendar year 1984 and subsequent years
 New unnumbered paragraph at end of subsection 20 prospectively repealed; 83 Acts, ch 190, § 26 (HF 637)
 Subsection 6, paragraph g, subparagraph (6), unnumbered paragraph 2 amended
 NEW subparagraph (7) added to subsection 6, paragraph g
 NEW unnumbered paragraph 4 added to subsection 20
 (83 Acts, ch 101, § 9) SF 136
 Subsection 9, paragraph c amended

96.23 Base period exclusion. The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 16, if the individual received weekly workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or weekly indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

1. The individual did not receive wages from insured work for three calendar quarters.

2. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4.

The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such weekly workers' compensation benefits or weekly indemnity insurance benefits.

(83 Acts, ch 190, § 25, 27) HF 637

Effective only for claims filed on or after July 3, 1983

Struck and rewritten

96.31 Tax for benefits. Political subdivisions may levy a tax outside their general fund levy limits to pay the cost of unemployment benefits.

(83 Acts, ch 123, § 50, 209) HF 628

Amended

CHAPTER 97B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

97B.41 Definitions. When used in this chapter:

1. a. "Wages" means all remuneration for employment, including the cash value of remuneration paid in a medium other than cash, but not including the cash value of remuneration paid in a medium other than cash necessitated by the convenience of the employer. The amount agreed upon by the employer and employee for remuneration paid in a medium other than cash shall be reported to the department by the employer and is conclusive of the value of the remuneration. However, remuneration which does not equal or exceed the sum of three hundred dollars in a calendar quarter shall be excluded. "Wages" does not include special lump sum payments made as payment for sick leave or accrued vacation or payments made as an incentive for early retirement. Wages for an elected official means the salary received by an elected official, exclusive of expense and travel allowances.

Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly. Wages includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. [Effective January 8, 1979]

b. "Covered wages" means wages of a member during the periods of membership service as follows:

(1) For the period from July 4, 1953, through December 31, 1953, and each calendar year from January 1, 1954, through December 31, 1963, wages not in excess of four thousand dollars.

(2) For each calendar year from January 1, 1964, through December 31, 1967, wages not in excess of four thousand eight hundred dollars.

(3) For each calendar year from January 1, 1968, through December 31, 1970, wages not in excess of seven thousand dollars, for each calendar year from January 1, 1971 through December 31, 1972, wages not in excess of seven thousand eight hundred dollars, and for each calendar year from January 1, 1973 through December 31, 1975, wages not in excess of ten thousand eight hundred dollars.

(4) For each calendar year from January 1, 1976, through December 31, 1983, wages not in excess of twenty thousand dollars.

(5) For each calendar year from January 1, 1984 through December 31, 1985, wages not in excess of twenty-one thousand dollars per year.

(6) For each calendar year from January 1, 1986 and thereafter, wages not in excess of twenty-two thousand dollars.

(7) Effective July 1, 1978, covered wages shall not include wages to a member on or after the first of the month in which the member attains the age of seventy years, or after the effective date of the member's retirement unless the member is re-employed, as provided under section 97B.48, subsection 3.

(8) If a member is employed by more than one employer during a calendar year, the total amount of wages paid to the member by the several employers shall be included in determining the limitation on covered wages as provided in this paragraph. If the amount of wages paid to a member by the member's several employers during a calendar year exceeds the covered wage limit, the amount of such excess shall not be subject to the contributions required by section 97B.11.

2. "Employment for any calendar quarter" means any service performed under an employer-employee relationship under the provisions of this chapter if the remuneration equals or exceeds three hundred dollars in the calendar quarter. For the purposes of this chapter, elected officials are deemed to be in employment.

3. a. "Employer" means the state of Iowa, the counties, municipalities, and public school districts and all of the political subdivisions and all of their departments and instrumentalities, including joint planning commissions created under the provisions of chapter 473A.

If an interstate agency is established under chapter 28E and similar enabling legislation in an adjoining state, and a city had made contributions to the system for employees performing functions which are transferred to the interstate agency, the employees of the interstate agency who perform those functions shall be considered to be employees of the city for the sole purpose of membership in the system, although the employer contributions for those employees are made by the interstate agency.

b. "Employee" means any individual who is in employment defined in this chapter, except:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 7.

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa unless such members or employees shall make an application to the department to be covered under the provisions of this chapter. A member of the general assembly or temporary employee of the general assembly who made

an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the member's or temporary employee's termination.

(3) Employees of drainage and levee districts not vested, unless such drainage and levee districts shall make an application to the department to be covered under the provisions of this chapter. However, any drainage or levee district which has made contributions against which no application for benefits has been made shall be entitled to withdraw all such contributions by making application to the department prior to December 31, 1969. Each drainage or levee district which withdraws its contributions shall refund to its employees contributions deducted from their wages.

(4) Employees hired for temporary employment of six months or less duration.

(5) Employees of community action programs, determined to be an instrumentality of the state or a political subdivision, unless such employees elect by filing an application with the department to be covered under the provisions of this chapter.

(6) Magistrates other than those who elect by filing an application with the department to be covered under this chapter.

(7) Persons employed under the federal Comprehensive Employment Training Act as amended to January 1, 1978 unless such employees shall make an application to the department to be covered under the provisions of this chapter.

(8) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants, and specialists in their field of specialized knowledge or skill.

(9) Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.

(10) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in chapter 372 or chapter 420 unless such employees shall make an application to the department to be covered under the provisions of this chapter.

(11) Members of the state transportation commission, the board of parole, and the state health facilities council unless a member elects by filing an application with the department to be covered under this chapter.

4. The masculine form of expression shall be deemed to include the feminine.

5. "System" means the retirement plan as contained herein or as duly amended.

6. "Abolished system" means the Iowa old-age and survivors' insurance system repealed by sections 97.50 to 97.53.

7. "Contributions" means the payments to the fund required herein, by the employer and by the members, to provide the benefits of the system.

8. "Member" means an employee or a former employee required to become a member of the system by sections 97B.42 and 97B.43.

9. "Active member" during a calendar year means a member who made contributions to the system at any time during the calendar year and who:

a. Had not received or applied for a refund of his or her accumulated contributions for withdrawal or death, and

b. Had not commenced receiving a retirement allowance.

10. "Inactive member" with respect to future service means a member who at the end of a year had not made any contributions during the current year and who has not received a refund of his accumulated contributions.

11. "Vested member" means a member who terminated employment in accordance with one of the following paragraphs:

a. Prior to July 1, 1965, after having attained the age of forty-eight and completed at least eight years of service.

b. Between July 1, 1965 and June 30, 1973, after having completed at least eight years of service.

c. On or after July 1, 1973, after having completed at least four years of service.

d. After having attained the age of fifty-five.

12. "*Retired member*" means a member who had applied for and commenced receiving his retirement allowance.

13. "*Accumulated contributions*" means the total obtained as of any date, by accumulating each individual contribution by the member at two percent interest plus interest dividends for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years at two percent interest plus the interest dividend rate calculated for the previous year, compounded annually, from the end of the calendar year in which such contribution was made to the first day of the month of such date.

14. "*Service*" means uninterrupted service under this chapter by an employee, except an elected official, from the date he last entered employment of the employer until the date his employment shall be terminated by death, retirement, resignation or discharge; provided, however, the service of any employee shall not be deemed to be interrupted by:

a. Service in the armed forces of the United States during a period of war or national emergency, provided the employee was employed by the employer immediately prior to entry into such armed forces, and further provided the employee was released from such service and returns to employment with the employer within ninety days of the date on which he shall have the right of release from such service or within such longer period as may be provided by the laws of the United States applicable thereto.

b. Leave of absence or vacation authorized by the employer for a period not exceeding twelve months.

c. The termination at the end of the school year of the contract of employment of an employee who is a teacher in the public schools of the state of Iowa, provided the employee enters into a further contract of employment as a teacher in the public schools of the state of Iowa for the next succeeding school year.

d. Temporary or seasonal interruptions in service such as service of school bus drivers, schoolteachers under regular contract, interim teachers or substitute teachers, instructors at Iowa State University of science and technology, the state University of Iowa, or University of Northern Iowa, employees in state schools or hospital dormitories, other positions when the temporary suspension of service does not terminate the period of employment of the employee, or temporary employees of the general assembly.

15. "*Prior service*" means any service by an employee rendered at any time prior to July 4, 1953.

16. "*Years of prior service*" means the total of all periods of prior service of a member. In the determination of such total years of prior service any fraction of the total in excess of an integral number of years which is at least six months shall be deemed to be a complete year and any smaller fraction shall be disregarded.

17. "*Beneficiary*" means the person or persons entitled to receive any benefits at the death of a member payable under this chapter who has or have been designated in writing by the member and filed with the department, or if no such designation is in effect at the time of death of the member or if no person so designated is living at that time, then the beneficiary shall be the estate of the member.

18. "*Membership service*" means service rendered by a member after July 4, 1953, and prior to the first of the month in which the member attains the age of seventy years. Years of membership service shall be counted to the complete quarter calendar year.

19. "*Actuarial equivalent*" means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the department.

20. "*Five-year average covered wage*" means a member's covered wages averaged

for the highest five years of the member's service. If the member has less than five years of service, then the average shall be computed using the actual number of years as a member. The highest five years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the fifth year by combining the wages from the highest quarter or quarters not being used in the selection of the four highest years with the final quarter or quarters of the member's service to create a full year. If the five-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the five-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service.

21. "Service" for an elected official means the period of membership service for which contributions are made beginning on the date an elected official assumes office and ending on the expiration date of the last term the elected official serves, excluding all the intervening periods during which the elected official is not an elected official.

22. "Inactive vested member" means an inactive member who was a vested member at the time of termination of employment.

(83 Acts, ch 101, § 10) SF 136

Subsection 3, paragraph b, subparagraph (1) amended

(83 Acts, ch 186, § 10042, 10201) SF 495

Subsection 3, paragraph b, subparagraph (6) amended

97B.49 Monthly payments of allowance. Each member, upon retirement on or after his or her normal retirement date, is entitled to receive a monthly retirement allowance determined under this section. For an inactive vested member the monthly retirement allowance shall be determined on the basis of this section and section 97B.50 as they are in effect on the date of the member's retirement.

1. For each active member employed before January 1, 1976, and retiring on or after January 1, 1976, and for each member who was a vested member before January 1, 1976, with four or more complete years of service, a formula benefit shall be determined equal to the larger of the benefit determined under this subsection and subsection 3 of this section as applicable, or the benefit determined under subsection 5 of this section. The amount of the monthly formula benefit for each such active or vested member who retired on or after January 1, 1976, shall be equal to one-twelfth of one and fifty-seven hundredths percent per year of membership service multiplied by the member's average annual covered wages; but in no case shall the amount of monthly formula benefit accrued for membership service prior to July 1, 1967, be less than the monthly annuity at the normal retirement date determined by applying the sum of the member's accumulated contributions, the member's employer's accumulated contributions on or before June 30, 1967, and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the department with due regard to the benefits payable from such accumulated contributions under sections 97B.52 and 97B.53.

2. For each active and vested member retiring with less than four complete years of service and who therefore cannot have a benefit determined under the formula benefit of subsection 1 or subsection 5 of this section a monthly annuity for membership service shall be determined by applying the member's accumulated contributions and the employer's matching accumulated contributions as of the effective retirement date and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the department according to his age.

3. For each member employed before January 1, 1976, who has qualified for prior service credit in accordance with the first paragraph of section 97B.43, there shall be determined a benefit of eight-tenths of one percent per year of prior service credit

multiplied by the monthly rate of the member's total remuneration not in excess of three thousand dollars annually during the twelve consecutive months of his prior service for which such total remuneration was the highest. An additional three-tenths of one percent of such remuneration not in excess of three thousand dollars annually shall be payable for prior service during each year in which the accrued liability for benefit payments created by the abolished system is funded by appropriation from the general fund of the state of Iowa as provided under section 97B.56.

4. For each active member retiring on or after June 30, 1973, and who has completed ten or more years of membership service, the total amount of monthly benefit payable at the normal retirement date for prior service and membership service shall not be less than fifty dollars per month. If benefits commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50. If an optional allowance is selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit. An employee who is in employment on a school year or academic year basis, will be considered to be an active member as of June 30, 1973, if he completes the 1972-1973 school year or academic year.

5. For each active member retiring between January 1, 1976 and June 30, 1982, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to forty-seven percent of the five-year average covered wage multiplied by a fraction of years of service. For each member retiring on or after July 1, 1982, with four or more complete years of service, the percent used in computing the monthly benefit is fifty. For the purposes of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

If benefits under this subsection commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50.

6. On January 1, 1976, for each member who retired before January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for December, 1975 is increased by ten percent for the first calendar year or portion of a calendar year the member was retired, and by an additional five percent for each calendar year after the first calendar year the member was retired through the calendar year beginning January 1, 1975. The total increase shall not exceed one hundred percent. There is appropriated from the general fund of the state to the Iowa department of job service from funds not otherwise appropriated an amount sufficient to fund the provisions of this subsection.

The benefit increases granted to members retired under the system on January 1, 1976 shall be granted only on January 1, 1976 and shall not be further increased for any year in which the member was retired after the calendar year beginning January 1, 1975.

7. Notwithstanding other provisions of this chapter, a member who is or has been employed as a conservation peace officer under section 107.13 and who retires between July 1, 1978 and June 30, 1982 and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a conservation peace officer, may elect to receive, in lieu of the receipt of any benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of forty-seven percent of the member's five-year average covered wage as a conservation peace officer, with benefits payable during the member's lifetime. For each conservation peace officer eligible for benefits under this subsection who retires on or after July 1, 1982, the percent used in computing the monthly retirement allowance is fifty. There is appropriated from the general fund of the state to the Iowa department of job service from funds not otherwise appropriated an amount sufficient to pay eight and forty-three hundredths percent of the covered wages of

each conservation peace officer, in addition to the contribution paid by the employer under section 97B.11, to finance increased benefits to conservation peace officers under this subsection.

8. a. Notwithstanding other provisions of this chapter, a member who is or has been employed as a county sheriff, as defined in section 39.17, or as a deputy sheriff appointed pursuant to section 341.1, Code 1981, or section 331.903, and who retires between January 1, 1978 and June 30, 1982, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a county sheriff or deputy sheriff, may elect to receive, in lieu of the benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of forty-seven percent of the member's five-year average covered wage as a sheriff or deputy sheriff, with benefits payable during the member's lifetime. For each sheriff and deputy sheriff eligible for benefits under this subsection who retires between July 1, 1982 and June 30, 1983, the percent used in computing the monthly retirement allowance is fifty.

Notwithstanding other provisions of this chapter, a member who is or has been employed as a peace officer, and who retires on or after July 1, 1983 and meets the age requirements and membership service requirements for benefits specified in this paragraph may elect to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's five-year average covered wage as a peace officer, with benefits payable during the member's lifetime.

For the purpose of this subsection membership service as a peace officer means service under this system as any or all of the following:

- (1) As a county sheriff as defined in section 39.17.
- (2) As a deputy sheriff appointed pursuant to section 341.1, Code 1981, or section 331.903.
- (3) As a marshal or police officer in a city not covered under chapter 400.

b. Each county and applicable city and employee eligible for benefits under this section shall annually contribute an amount determined by the Iowa department of job service, as a percentage of covered wages, to be necessary to pay for the additional benefits provided by this section. The annual contribution in excess of the employer and employee contributions required by this chapter shall be paid by the employer and the employee in the same proportion that employer and employee contributions are made under section 97B.11. The additional percentage of covered wages shall be calculated separately by the department for service under paragraph "a", subparagraphs (1) and (2), and for service under paragraph "a", subparagraph (3), and each shall be an actuarially determined amount for that type of service which, if contributed throughout the entire period of active service, would be sufficient to provide the pension benefit provided in this section.

9. Effective July 1, 1978, for each member who retired from the system prior to January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1978 is increased as follows:

- a. For the first ten years of service, fifty cents per month for each complete year of service.
- b. For the eleventh through the twentieth years of service, two dollars per month for each complete year of service.
- c. For the twenty-first through the thirtieth years of service, three dollars per month for each complete year of service.

Effective July 1, 1979, the increases granted to members under this subsection shall be paid to contingent annuitants and to beneficiaries.

10. Notwithstanding sections of this chapter relating to eligibility for and determination of retirement benefits, a vested member who is or has been employed as a correctional officer by the Iowa department of corrections and who retires on or after July 1, 1983 and at the time of retirement is at least sixty years of age and has

completed at least thirty years of membership service as a correctional officer, may elect to receive, in lieu of the receipt of benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's five-year average covered wages as a correctional officer, with benefits payable during the member's lifetime.

The Iowa department of corrections and the department of merit employment shall jointly determine the applicable merit system job classifications of correctional officers.

The Iowa department of corrections shall pay to the Iowa department of job service, from funds appropriated to the Iowa department of corrections, an amount sufficient to pay one and seventy-one hundredths percent of the covered wages of each correctional officer, in addition to the employer contributions required in section 97B.11 to pay for the lower retirement age for correctional officers provided in this subsection.

11. Effective July 1, 1980, for each member who retired from the system prior to January 1, 1976, and for each member who retired from the system on or after January 1, 1976 under subsection 1 of this section, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1980 is increased as follows:

a. For the first ten years of service, fifty cents per month for each complete year of service.

b. For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

c. For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

d. The amount of monthly increase payable to a member under this subsection is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section.

However, effective July 1, 1980 the monthly retirement allowance attributable to membership service and prior service of a member, contingent annuitant and beneficiary shall not be less than five dollars times the number of complete years of service of the member, not to exceed thirty, reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52, compared to the full monthly retirement benefit provided in this section.

12. Effective beginning July 1, 1982, for each member who retired from the system prior to January 1, 1976, and for each member who retired from the system on or after January 1, 1976 under subsection 1 of this section, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1982 is increased as follows:

a. For the first ten years of service, fifty cents per month for each complete year of service.

b. For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

c. For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

d. The amount of monthly increase payable to a member under this subsection is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section.

¹(83 Acts, ch 96, § 157, 159, 160) SF 464

See Code editor's note at the end of this Supplement

Subsection 10 amended

CHAPTER 97C

FEDERAL SOCIAL SECURITY ENABLING ACT

97C.20 Referenda by governor. With respect to employees of the state the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision he shall authorize a referendum upon request of the governing body of such subdivision; and in either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218 "d" (3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. The notice of referendum required by section 218 "d" (3) (C) of the Social Security Act to be given to employees shall contain or shall be accomplished by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

Upon receiving evidence satisfactory to the governor that with respect to any such referendum the conditions specified in section 218 "d" (3) of the Social Security Act have been met, the governor shall so certify to the secretary of health and human services.

(83 Acts, ch 101, § 11) SF 136

Unnumbered paragraph 2 amended

CHAPTER 98

CIGARETTES AND TOBACCO

98.6 Tax imposed.

1. There is hereby levied, assessed, and imposed, and shall be collected and paid to the department, the following taxes on all cigarettes used or otherwise disposed of in this state for any purpose whatsoever:

Class A. On cigarettes weighing not more than three pounds per thousand, six and one-half mills on each such cigarette.

Class B. On cigarettes weighing more than three pounds per thousand, seven and one-half mills on each such cigarette.

2. Notwithstanding subsection 1, there is imposed beginning July 1, 1981 and shall be collected and paid to the department a tax on all cigarettes used or otherwise disposed of in this state for any purpose at the rate of nine mills on each cigarette.

3. The said tax shall be paid only once by the person making the "first sale" in this state, and shall become due and payable as soon as such cigarettes are subject to a "first sale" in Iowa, it being intended to impose the tax as soon as such cigarettes are received by any person in Iowa for the purpose of making a "first sale" of same. If the person making the "first sale" did not pay such tax, it shall be paid by any person into whose possession such cigarettes come until said tax has been paid in full. No person, however, shall be required to pay a tax on cigarettes brought into this state on or about his person in quantities of forty cigarettes or less, when such cigarettes have had the individual packages or seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

4. Payment of such tax shall be evidenced by stamps purchased from the department and securely affixed to each individual package of cigarettes in amounts equal to the tax thereon as imposed by this chapter, or by the impressing of an indicium upon individual packages of cigarettes, under regulations prescribed by the director.

5. The tax imposed shall be in lieu of any other occupation or excise tax on cigarettes imposed by any political subdivision of the state.

(83 Acts, ch 165, § 1) SF 543

NEW subsection 2 and following subsections renumbered

98.8 Sale and exchange of stamps.

1. Stamps shall be sold by and purchased from the department. The department shall sell stamps to the holder of a state distributor's permit which has not been revoked and to no other person. Stamps shall be sold to the permit holders at a discount of two percent of the face value. Stamps shall be sold in unbroken books of one thousand stamps, unbroken rolls of thirty thousand stamps, or unbroken lots of any other form authorized by the director.

2. Orders for cigarette tax stamps, including the payment for such stamps, shall be sent direct to the department on a form to be prescribed by the director, except as provided in subsection 6.

3. The department may make refunds on unused stamps to the person who purchased said stamps at a price equal to the amount paid for such stamps when proof satisfactory to the department is furnished that any stamps upon which a refund is requested were properly purchased from the department and paid for by the person requesting such refund. In making such refund, the department shall prepare a voucher showing the amount of refund due and to whom payable and the comptroller shall then issue a warrant upon order of the director to pay such refund out of any funds in the state treasury not otherwise appropriated.

The director may promulgate rules providing for refunds of the face value of stamps, less any discount, affixed to any cigarettes which have become unfit for use and consumption, unsalable, or for any other legitimate loss which may occur, upon proof of such loss. Refund shall be made in the same manner as provided for unused stamps.

4. The department may in the enforcement of this division recall any stamps which have been sold by the department and which have not been used, and the department shall, upon receipt of recalled stamps, issue a refund for tax stamps surrendered for the face value of the stamps less the amount of the discount. The purchaser of stamps shall surrender any unused stamps for refund upon demand of the department.

5. The department shall keep a record of all stamps sold by the department and of all refunds made by the department.

6. The director may authorize a bank as defined by section 524.103, subsection 5 to sell stamps. A bank authorized to sell stamps shall comply with all of the requirements governing the sale of stamps by the department. Section 98.12 shall apply to any bank authorized to sell stamps.

(83 Acts, ch 165, § 2) SF 543

Subsection 1 amended

98.35 Tax and fees paid to general fund. The proceeds derived from the sale of stamps and the payment of taxes, fees and penalties provided for under this chapter, and the permit fees received from all permits issued by the department, shall be credited to the general fund of the state. All permit fees provided for in this chapter and collected by cities in the issuance of permits granted by the cities shall be paid to the treasurer of the city where the permit is effective, or to another city officer as designated by the council, and credited to the general fund of the city. Permit fees so collected by counties shall be paid to the county treasurer.

(83 Acts, ch 123, § 51, 209) HF 628

Amended

CHAPTER 98A

SMOKING PROHIBITIONS

98A.6 Civil penalty for violation. A person who smokes in those areas covered by section 98A.2 or who violates section 98A.4 shall pay a civil fine of five dollars for the first violation and not less than ten nor more than one hundred dollars for each subsequent violation.

Judicial magistrates shall hear and determine violations of this chapter. The civil fines paid pursuant to this chapter shall be deposited in the county treasury.

(83 Acts, ch 123, § 52, 209) HF 628
Unnumbered paragraph 2 amended

CHAPTER 99

HOUSES USED FOR PROSTITUTION, GAMBLING OR POOL SELLING

99.30 Application of tax. *The tax collected shall be applied toward the deficiency in the payment of costs of the action and abatement which exist after the application of the proceeds of the sale of personal property. The remainder of the tax together with the unexpended portion of the proceeds of the sale of personal property shall be paid to the clerk of court who shall remit the amount to the treasurer of state for distribution under section 602.8107, except that ten percent of the amount of the whole tax collected and of the whole proceeds of the sale of the personal property, as provided in this chapter, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.*

(83 Acts, ch 186, § 10043, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

99.30 Application of tax. The tax collected shall be applied toward the deficiency in the payment of costs of the action and abatement which exist after the application of the proceeds of the sale of personal property. The remainder of the tax together with the unexpended portion of the proceeds of the sale of personal property shall be paid to the treasurer of state for deposit in the general fund of the state, except that ten percent of the amount of the whole tax collected and of the whole proceeds of the sale of the personal property, as provided in this chapter, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

(83 Acts, ch 185, § 2, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, sec 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

CHAPTER 99A

POSSESSION OF GAMBLING DEVICES — LICENSES REVOKED

99A.2 Intentional possession. The intentional possession or willful keeping of a gambling device upon any licensed premises, except as provided in this chapter, is cause for the revocation of any license upon the premises where the gambling device is found. Possession by an employee of the licensee on the premises of the licensee creates a presumption of intentional possession by the licensee.

All licenses of any licensed business shall be revoked if the intentional possession

or willful keeping of any such gambling device upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

(83 Acts, ch 187, § 31) SF 92

Unnumbered paragraph 1 amended

CHAPTER 99B

GAMES OF SKILL, CHANCE AND RAFFLES

99B.7 Games conducted by qualified organizations.

1. Except as otherwise provided in section 99B.8, games of skill, games of chance and raffles lawfully may be conducted at a location specified in subsection 2 of this section, but only if all of the following are complied with:

a. The person conducting the game or raffle has been issued a license pursuant to subsection 3 of this section and prominently displays that license in the playing area of the games.

b. No person receives or has any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or related to a game of skill, game of chance, or raffle, except any amount which the person may win as a participant on the same basis as the other participants. A person conducting a game or raffle shall not be a participant in the game or raffle.

c. Cash prizes may be awarded in the game of bingo and shall not exceed one hundred dollars. Merchandise prizes may be awarded in the game of bingo, however, the actual retail value of the prize, or if the prize consists of more than one item, unit or part, the aggregate retail value of all items, units or parts, shall not exceed one hundred dollars. A jackpot bingo game may be conducted once during any twenty-four hour period in which the prize doubles if not won at one game. However, the cost of play shall not be increased and the jackpot shall not amount to more than five hundred dollars in cash or actual retail value of merchandise prizes. A jackpot bingo game is not prohibited by paragraph "h" of this subsection. A bingo occasion shall not last for longer than four consecutive hours. A qualified organization shall not hold more than fourteen bingo occasions per month. Bingo occasions held under a limited license shall not be counted in determining whether a qualified organization has conducted more than fourteen bingo occasions per month, nor shall bingo occasions held under a limited license be limited to four consecutive hours. With the exception of a limited license bingo, no more than three bingo occasions per week shall be held within a structure or building and only one person licensed to conduct games under this section may hold bingo occasions within a structure or building. However, a qualified organization whose gross receipts for the previous four quarters were three thousand five hundred dollars or less may hold more than fourteen bingo occasions per month and more than three bingo occasions per week within the same structure or building, and bingo occasions conducted by such a qualified organization may last for longer than four consecutive hours. At the conclusion of each bingo occasion, the person conducting the game shall announce both the gross receipts received from the bingo occasion and the use permitted under subsection 3, paragraph "b", of this section to which the net receipts of the bingo occasion will be dedicated and distributed.

d. Cash prizes shall not be awarded in games other than bingo. The actual retail value of any merchandise prizes shall not exceed fifty dollars and merchandise prizes shall not be repurchased. However, one raffle may be conducted in a twelve-month period at which a merchandise prize having a value not greater than ten thousand dollars as determined by purchase price paid by the organization or donor may be awarded.

e. Except as provided in paragraph "d" of this subsection with respect to an annual raffle, the cost to a participant for each game shall not exceed one dollar.

- f. No prize is displayed which cannot be won.
- g. Merchandise prizes are not repurchased.
- h. A game or raffle shall not be operated on a build-up or pyramid basis.
- i. Concealed numbers or conversion charts shall not be used to play any game and a game or raffle shall not be adapted with any control device to permit manipulation of the game by the operator in order to prevent a player from winning or to predetermine who the winner will be, and the object of the game must be attainable and possible to perform under the rules stated from the playing position of the player.
- j. The game must be conducted in a fair and honest manner.
- k. Each game or raffle shall be posted.
- l. During the entire time that games permitted by this section are being engaged in, no other gambling is engaged in at the same location.

m. The person or organization conducting the game can show to the satisfaction of the department that the person or organization is eligible for exemption from federal income taxation under either section 501(c)(3), 501(c)(5), 501(c)(6), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, as defined in section 422.4. However, this paragraph does not apply to a political party as defined in section 43.2, to a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate committee as defined in section 56.2.

- n. The person conducting the game does none of the following:
 - (1) Hold, currently, another license issued under this section.
 - (2) Own or control, directly or indirectly, any class of stock of another person who has been issued a license to conduct games under this section.
 - (3) Have, directly or indirectly, an interest in the ownership or profits of another person who has been issued a license to conduct games under this section.

2. Games of skill, games of chance, and raffles may be conducted on premises owned or leased by the licensee, but shall not be conducted on rented premises unless the premises are rented from a person licensed under this section, and unless the net rent received is dedicated to one or more of the uses permitted under subsection 3 for dedication of net receipts. This subsection shall not apply where the rented premises are those upon which a qualified organization usually carries out a lawful business other than operating games of skill, games of chance or raffles. However, a qualified organization may rent premises other than from a licensed qualified organization to be used for the conduct of games of skill, games of chance and raffles, and the person from whom the premises are rented may impose and collect rent for such use of those premises, but only if all of the following are complied with:

- a. The rent imposed and collected shall not be a percentage of or otherwise related to the amount of the receipts of the game or raffle.
- b. The qualified organization shall have the right to terminate any rental agreement at any time without penalty and without forfeiture of any sum.
- c. The person from whom the premises are rented shall not be a liquor control licensee or beer permittee with respect to those premises or with respect to adjacent premises.

The board of directors of a school district may authorize that public schools within that district, and the policymaking body of a nonpublic school, may authorize that games of skill, games of chance, bingo and raffles may be held at bona fide school functions, such as carnivals, fall festivals, bazaars and similar events. Each school shall obtain a license pursuant to this section prior to permitting the games or activities on the premises. However, the board of directors of a public school district may also be issued a license under this section. However, a board of directors of a public school shall not spend or authorize the expenditure of public funds for the purpose of purchasing a license. The department shall provide by rule a short form application for a license issued to a board of directors. Upon written approval by the

board of directors, the license may be used by any school group or parent support group in the district to conduct activities authorized by this section. The board of directors shall not authorize a school group or parent support group to use the license more than twice in twelve months.

3. a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license which shall authorize the person to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days. A limited license shall not be issued more than once during any twelve-month period to the same person, or for the same location.

b. A person or the agent of a person submitting application to conduct games pursuant to this section as a qualified organization shall certify that the receipts of all games, less reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, either will be distributed as prizes to participants or will be dedicated and distributed to educational, civic, public, charitable, patriotic or religious uses in this state and that the amount dedicated and distributed will equal at least seventy-five percent of the net receipts. "Educational, civic, public, charitable, patriotic, or religious uses" means uses benefiting a society for the prevention of cruelty to animals or animal rescue league, or uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government, or uses benefiting any bona fide nationally chartered fraternal or military veterans' corporation or organization which operates in Iowa a clubroom, post, dining room, or dance hall, but do not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used for one or more of the uses stated. "Public uses" specifically includes dedication of net receipts to political parties as defined in section 43.2. "Charitable uses" includes uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm when the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury, causing severe loss of income or incurring extraordinary medical expense when the loss is uncompensated by insurance.

c. A qualified organization shall distribute amounts awarded as prizes on the day they are won. A qualified organization shall dedicate and distribute the balance of the net receipts received within a quarter and remaining after deduction of reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, before the quarterly report required for that quarter under section 99B.2, subsection 3, is due. The amount dedicated and distributed must equal at least seventy-five percent of the net receipts. A person desiring to hold the net receipts for a period longer than permitted under this paragraph shall apply to the department for special permission and upon good cause shown the department may grant the request.

4. It is lawful for an individual other than a person conducting games or raffles to participate in games or raffles conducted by a qualified organization, whether or not there is compliance with subsections 2 and 3: However, it is unlawful for the individual to participate where the individual has knowledge of or reason to know facts which constitute a failure to comply with subsection 1.

5. A political party or a political party organization is a qualified organization within the meaning of this chapter. Political parties or party organizations may contract with other qualified organizations to conduct the games of skill, games of chance, and raffles which may lawfully be conducted by the political party or party organization. A licensed qualified organization may promote the games of skill, games of chance, and raffles which it may lawfully conduct.

(83 Acts, ch 164, § 1, 2) HF 176

Subsection 1, paragraph m amended
NEW subsection 5

(83 Acts, ch 85, § 1) HF 317

Subsection 2, paragraph c, unnumbered paragraph 2 amended

CHAPTER 99D

IOWA PARI-MUTUEL WAGERING ACT

NEW chapter

99D.1 Short title. This chapter shall be known and may be cited as the "Iowa Pari-mutuel Wagering Act".

(83 Acts, ch 187, § 1) SF 92

NEW section

99D.2 Definitions. As used in this chapter unless the context otherwise requires:

1. "*Breakage*" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

2. "*Commission*" means the state racing commission created under section 99D.5.

3. "*Holder of occupational license*" means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in within the racing industry in Iowa.

4. "*Licensee*" means a nonprofit corporation licensed under section 99D.9.

5. "*Pari-mutuel wagering*" means the system of wagering described in section 99D.11.

6. "*Race*", "*racing*", "*race meeting*", "*track*", and "*racetrack*" refer to dog racing and horse racing, including quarterhorse, thoroughbred, and harness racing, as approved by the commission.

7. "*Racetrack enclosure*" means the grandstand, clubhouse, turf club or other areas of a licensed racetrack which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials. "*Racetrack enclosure*" also means any additional areas designated by the commission.

(83 Acts, ch 187, § 2) SF 92

NEW section

99D.3 Scope of provisions. This chapter does not apply to horse-race or dog-race meetings unless the pari-mutuel system of wagering is used or intended to be used in connection with the horse-race or dog-race meetings. If the pari-mutuel system is used or intended to be used a person shall not conduct a race meeting without a license as provided by section 99D.9.

(83 Acts, ch 187, § 3) SF 92

NEW section

99D.4 Pari-mutuel wagering legalized. The system of wagering on the results of horse or dog races as provided by this chapter is legal, when conducted within the racetrack enclosure at a licensed horse-race or dog-race meeting.

(83 Acts, ch 187, § 4) SF 92

NEW section

99D.5 Creation of state racing commission — members — terms — qualifications — bonds — prohibited activities — penalty.

1. There is created a state racing commission consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

2. A vacancy on the commission shall be filled as provided in section 2.32.

3. Not more than three members of the commission shall belong to the same political party and no two members of the commission shall reside, when appointed, in the same congressional district. A member of the commission shall not have a financial interest in a racetrack.

4. Commission members shall each receive an annual salary of six thousand dollars. Members shall also be reimbursed for necessary travel and expenses incurred in the performance of their duties to a maximum of six thousand dollars per year

for the commission. Each member shall post a bond in the amount of ten thousand dollars, with sureties to be approved by the governor, to guarantee the proper handling and accounting of moneys and other properties required in the administration of this chapter. The premiums on the bonds shall be paid as other expenses of the commission.

5. A member, employee, or appointee of the commission, or a family member related within the second degree of affinity or consanguinity to a member, employee, or appointee of the commission shall not:

a. Enter directly or indirectly into any business dealing, venture, or contract with an owner or lessee of a racetrack, a licensee, or a holder of an occupational license.

b. Be employed in any capacity by a racetrack, licensee, or a holder of an occupational license.

c. Participate directly or indirectly as an owner, owner-trainer, trainer of a horse or dog, or jockey of a horse in a race meeting conducted in this state.

d. Place a wager on an entry in a race.

Violations of this subsection shall be a serious misdemeanor. In addition, the individual may be subject to disciplinary actions pursuant to the commission rules.

(83 Acts, ch 187, § 5, 36) SF 92

Initial members appointed to staggered terms

NEW section

99D.6 Chairperson — secretary — duties — bond. The commission shall elect in July of each year one of its members chairperson for the succeeding year. The commission may employ a secretary and other assistants and employees as necessary to carry out its duties. The secretary shall keep a record of the proceedings of the commission, preserve the books, records, and documents entrusted to the secretary's care, and perform other duties as the commission prescribes. The commission shall require the secretary to post a bond in a sum it may fix, conditioned upon the faithful performance of the secretary's duties. Subject to the approval of the governor, the commission shall fix the compensation of its secretary within salary range five as set by the general assembly. The commission shall also fix the compensation of its other employees, subject to the approval of the governor. The commission shall have its headquarters in the city of Des Moines, and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

(83 Acts, ch 187, § 6) SF 92

NEW section

99D.7 Powers and authority. The commission shall have full jurisdiction over and shall supervise all race meetings governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.

2. To identify occupations within the racing industry which require licensing and adopt standards for licensing the occupations including establishing fees for the occupational licenses.

3. To adopt standards under which all race meetings shall be held and standards for the facilities within which the race meetings shall be held.

4. To regulate the purse structure for race meetings including establishing a minimum purse.

5. To cooperate with the department of agriculture to establish and operate, or contract for, a laboratory and related facilities to conduct saliva, urine, and other tests on animals that are to run or that have run in races governed by this chapter.

6. To establish fees for the testing of animals sufficient to cover the costs of the tests and to purchase the necessary equipment for the testing.

7. To enter the office, racetrack, facilities, or other places of business of a licensee to determine compliance with this chapter.

8. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for the violation, or institute appropriate legal action for enforcement, or both.

9. To authorize stewards, starters, and other racing officials to impose fines or other sanctions upon a person violating this chapter or the commission rules, orders, or final orders including a tout, bookmaker, or other person deemed to be undesirable from the racetrack facilities.

10. To require the removal of a racing official, an employee of a licensee, or a holder of an occupational license, or employee of a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.

11. To prevent an animal from racing if the commission or commission employees with cause believe the animal or its owner, trainer, or an employee of the owner or trainer is in violation of this chapter or commission rules.

12. To withhold payment of a purse if the outcome of a race is disputed or until tests are performed on the animals to determine if they were illegally drugged.

13. To provide for immediate determination of the disposition of a challenge by a racing official or representative of the commission by establishing procedures for informal hearings before a panel of stewards at a racetrack.

14. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's racing activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the racing activities of each licensee.

15. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with chapter 17A, and to administer oaths and affirmations to the witnesses, when, in the judgment of the racing commission, it is necessary to enforce this chapter or the commission rules.

16. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.

17. To require all licensees to use a computerized totalisator system for calculating odds and payouts from the pari-mutuel wagering pool and to establish standards to insure the security of the totalisator system.

18. To revoke or suspend licenses and impose fines not to exceed one thousand dollars.

19. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

(83 Acts, ch 187, § 7) SF 92

NEW section

99D.8 Horse or dog racing licenses — applications. A qualified nonprofit corporation as defined in section 99B.1, subsection 10, organized to promote those purposes enumerated in section 99B.7, subsection 3, paragraph "b", or a nonprofit corporation which conducts a livestock exposition for the promotion of the livestock, horse, or dog breeding industries of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the secretary of the commission at least sixty days before the first day of the horse-race or dog-race meeting which the nonprofit corporation or association proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes.

(83 Acts, ch 187, § 8) SF 92

NEW section

99D.9 Licenses — terms and conditions — revocation.

1. If the commission is satisfied that its rules and sections 99D.8 through 99D.25 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than one year. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types or both dog and horse racing. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing.

2. A license shall only be granted to a nonprofit corporation or association upon the express condition that:

a. The nonprofit corporation or association shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation or management of a race meeting licensed under this section or of the pari-mutuel system of wagering described in section 99D.11.

b. The nonprofit corporation shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the race or race meeting or from the operation of the pari-mutuel system.

3. A license shall not be granted to a nonprofit corporation if there is substantial evidence that the applicant for a license:

a. Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission of that jurisdiction.

b. Has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.

c. Is not the true owner of the enterprise proposed.

d. Is not the sole owner, and other persons have ownership in the enterprise which fact has not been disclosed.

e. Is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.

f. Has knowingly made a false statement of a material fact to the commission.

g. Has failed to meet any monetary obligation in connection with a race meeting held in this state.

4. A license shall not be granted to a nonprofit corporation if there is substantial evidence that stockholders or officers of the nonprofit corporation are not of good repute and moral character.

5. A license shall not be granted to a licensee for racing on more than one racetrack at the same time.

6. A licensee may not loan or give to any person money or any other thing of value for the purpose of permitting that person to wager on any race.

7. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.

(83 Acts, ch 187, § 9) SF 92

NEW section

99D.10 Bond of licensee. A licensee licensed under section 99D.9 shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its racing in conformity with sections 99D.6

through 99D.23 and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

(83 Acts, ch 187, § 10) SF 92

NEW section

99D.11 Pari-mutuel wagering — minors prohibited.

1. Except as permitted in this section, the licensee shall permit no form of wagering on the results of the races.

2. Licensees shall only permit the pari-mutuel or certificate method of wagering as defined in this section.

3. The licensee may receive wagers of money only from a person present at a licensed race on a horse or dog in the race selected by the person making the wager to finish first in the race. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

4. The licensee shall issue to each person wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse or dog selected as first winner.

5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners.

6. The licensee shall likewise receive wagers on horses or dogs selected to run second, third, or both, or in combinations as the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first.

7. All wagering shall be conducted within the racetrack enclosure where the licensed race is held.

8. A person under the age of eighteen years shall not make a pari-mutuel wager.

(83 Acts, ch 187, § 11) SF 92

NEW section

99D.12 Breakage. A licensee shall deduct the breakage from the pari-mutuel pool which shall be distributed in the following manner:

1. In horse races the breakage shall be retained by the licensee to supplement purses for the race restricted to Iowa-foaled horses as provided in section 99D.22.

2. In dog races the breakage shall be distributed as follows:

a. Seventy-five percent shall be retained by the licensee to supplement purses for the race restricted to Iowa-whelped dogs as provided in section 99D.22.

b. Twenty-five percent shall be retained by the licensee and shall be put into a stake race for Iowa-whelped dogs. All dogs racing in the stake race must have run in at least twelve races during the current racing season at the track sponsoring the stake race to qualify to participate.

(83 Acts, ch 187, § 12) SF 92

NEW section

99D.13 Unclaimed winnings.

1. Winnings provided in section 99D.11 not claimed by the person who placed the wager within sixty days of the close of the racing meet during which the wager was placed shall be forfeited.

2. Winnings forfeited under subsection 1 shall escheat to the state as per chapter

556.

(83 Acts, ch 187, § 13) SF 92

NEW section

99D.14 Racing meets — tax — fees.

1. A licensee under section 99D.9 shall pay the tax imposed by section 99D.15.
2. A licensee shall also pay to the commission the sum of fifty cents for each person entering the grounds or enclosure of the licensee upon a ticket of admission.
 - a. If tickets are issued which are good for more than one day, the sum of fifty cents shall be paid for each person using the ticket on each day that the ticket is used.
 - b. If free passes or complimentary admission tickets are issued, the licensee shall pay the same tax upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.
 - c. However, the licensee may issue tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working at the racetrack.
 - d. The issuance of tax-free passes is subject to the rules of the commission, and a list of all persons to whom the tax-free passes are issued shall be filed with the commission.
3. The licensee shall also pay to the commission a licensee fee of two hundred dollars for each racing day of each horse-race or dog-race meeting for which a license has been issued.
4. No other license tax, permit tax, occupation tax, excise tax, or racing fee, shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.

(83 Acts, ch 187, § 14) SF 92
NEW section

99D.15 Pari-mutuel wagering tax — rate. A tax of six percent is imposed on the gross sum wagered by the pari-mutuel method at each race meeting. The tax imposed by this section shall be paid by the licensee to the treasurer of state within ten days after the close of each race meeting and shall be distributed as follows:

1. If the racetrack is located in a city, five of the six percent shall be deposited in the general fund of the state. One-half of one percent of the six percent shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. The remaining one-half of one percent shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.
2. If the racetrack is located in an unincorporated part of a county, five and one-half percent of the six percent shall be deposited in the general fund of the state. The remaining one-half of one percent shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

(83 Acts, ch 187, § 15) SF 92
NEW section

99D.16 Revenue director — verification of taxes due state. The director of revenue shall verify the amount of the fees and taxes due the state as provided by sections 99D.12, 99D.14, 99D.15, and 99D.22.

(83 Acts, ch 187, § 16) SF 92
NEW section

99D.17 Use of funds. The expenses of the commissioners, compensation of the secretary, assistants, and employees and their reasonable expenses shall first be paid out of the funds received pursuant to section 99D.14. The commission shall retain an additional amount sufficient to pay its current expenses. An itemized account of personal expenses shall be verified by the person making the claim, and shall be approved by a majority of the members of the commission or a person authorized by the commission to give the approval. If the account is paid, it shall be filed in the office of the commission and remain a part of the commission's permanent records. The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

(83 Acts, ch 187, § 17) SF 92
NEW section

99D.18 Surplus funds — how used. From the balance of the funds coming into the hands of the commission pursuant to section 99D.14, fifty thousand dollars shall be used by the Iowa state university college of veterinary medicine to develop further research on the treatment of equine injuries and diseases. The remaining funds shall be divided into

(83 Acts, ch 187, § 18) SF 92

This section reads as enacted by the general assembly; corrective legislation will be needed
NEW section

99D.19 Horse or dog racing — licensees — records — reports — supervision. A licensee shall keep its books and records so as to clearly show the following:

1. The total number of admissions to races conducted by it on each racing day, including the number of admissions upon free passes or complimentary tickets.
2. The amount received daily from admission fees.
3. The total amount of money wagered during the race meet.

The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The commission may designate a representative to attend a licensed race meeting, who shall have full access to all places within the enclosure of the meeting and who shall supervise and check the admissions. The compensation of the representative shall be fixed by the commission but shall be paid by the licensee.

(83 Acts, ch 187, § 19) SF 92

NEW section

99D.20 Audit of licensee operations. Within ninety days after the end of each race meet, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered in the state of Iowa under chapter 116.

(83 Acts, ch 187, § 20) SF 92

NEW section

99D.21 Annual report of commission. The commission shall make an annual report to the governor, for the period ending June 30 of each year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

(83 Acts, ch 187, § 21) SF 92

NEW section

99D.22 Native horses or dogs. A licensee shall hold at least one race on each racing day limited to horses foaled or dogs whelped in Iowa. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted. Three percent of the purse won by a horse or dog in the race limited to Iowa-foaled horses or Iowa-whelped dogs shall be used to promote the horse and dog breeding industries. The three percent shall be withheld by the licensee from the purse and shall be paid at the end of the race meeting to the state department of agriculture which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund and pay it by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog.

(83 Acts, ch 187, § 22) SF 92

NEW section

99D.23 Commission veterinarian and chemist.

1. The commission shall employ one or more chemists or contract with a qualified chemical laboratory to determine by chemical testing and analysis of saliva, urine, blood, or other excretions or body fluids whether a substance or drug has been introduced which may affect the outcome of a race or whether an action has been taken or a substance or drug has been introduced which may interfere with the testing procedure. The commission shall adopt rules under chapter 17A concerning procedures and actions taken on positive drug reports. The commission may adopt by reference the standards of the national association of state racing commissioners, the association of official racing chemists, and New York jockey club, or the United States trotting association or may adopt any other procedure or standard.

2. The commission shall employ or contract with one or more veterinarians to extract or procure the saliva, urine, blood, or other excretions or body fluids of the horses or dogs for the chemical testing purposes of this section. A commission veterinarian shall be in attendance at every race meeting held in this state.

3. A chemist or veterinarian who willfully or intentionally fails to perform the functions or duties of employment required by this section shall be banned for life from employment at a race meeting held in this state.

(83 Acts, ch 187, § 23) SF 92

NEW section

99D.24 Prohibited activities — penalty.

1. A person is guilty of an aggravated misdemeanor for doing any of the following:

a. Holding or conducting a race or race meeting where the pari-mutuel system of wagering is used or to be used without a license issued by the commission.

b. Holding or conducting a race or race meeting where wagering is permitted other than in the manner specified by section 99D.11.

c. Committing any other corrupt or fraudulent practice as defined by the commission in relation to racing which affects or may affect the result of a race.

2. A person knowingly permitting a person under the age of eighteen years to make a pari-mutuel wager is guilty of a simple misdemeanor.

3. A person wagering or accepting a wager at any location outside the betting enclosure is subject to the penalties in section 725.7.

4. A person commits a class "D" felony and, in addition, shall be barred for life from racetracks under the jurisdiction of the commission, if the person does any of the following:

a. Offers, promises, or gives anything of value or benefit to a person who is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

(83 Acts, ch 187, § 24) SF 92

NEW section

99D.25 Drugging or numbing of horses or dogs forbidden — penalty.

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

a. "Drugging" means administering to a horse or dog any substance, foreign to the natural horse or dog prior to the start of a race.

b. "Numbing" means the applying of ice, dry ice, a cold pack, or a chemical or mechanical freezing device to the limbs of a horse or dog within ten hours before the start of a race, or a surgical or other procedure which was, at any time, performed in which the nerves of a horse or dog were severed, destroyed, or removed.

c. "Entered" means that a horse or dog has been registered as a participant in a specified race, and not withdrawn prior to presentation of the horse or dog for inspection and testing.

2. The general assembly finds that the practice of drugging or numbing a horse or dog prior to a race:

a. Corrupts the integrity of the sport of racing and promotes criminal fraud in the sport;

b. Misleads the wagering public and those desiring to purchase a horse or dog as to the condition and ability of the horse or dog;

c. Poses an unreasonable risk of serious injury or death to the rider of a horse and to the riders of other horses competing in the same race; and

d. Is cruel and inhumane to the horse or dog so drugged or numbed.

3. The following conduct is prohibited:

a. The entering of a horse or dog in a race by the trainer or owner of the horse or dog if the trainer or owner knows or if by the exercise of reasonable care the trainer or owner should know that the horse or dog is drugged or numbed;

b. The drugging or numbing of a horse or dog with knowledge or with reason to believe that the horse or dog will compete in a race while so drugged or numbed. However, the commission may by rule establish permissible trace levels of substances foreign to the natural horse or dog that the commission determines to be innocuous;

c. The willful failure by the operator of a racing facility to disqualify a horse or dog from competing in a race if the operator has been notified that the horse or dog is drugged or numbed, or was not properly made available for tests or inspections as required by the commission; and

d. The willful failure by the operator of a racing facility to prohibit a horse or dog from racing if the operator has been notified that the horse or dog has been suspended from racing.

4. The owners of a horse or dog and their agents and employees shall permit a member of the commission or a person employed or appointed by the commission to make tests as the commission deems proper in order to determine whether a horse or dog has been improperly drugged. The findings of the commission that a horse or dog has been improperly drugged by a narcotic or other drug are prima facie evidence of the fact. The results of the tests shall be kept on file by the commission for at least one year following the tests.

A person who violates this section is guilty of a class "D" felony.

(83 Acts, ch 187, § 25) SF 92

NEW section

99D.26 Forfeiture of property.

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances are subject to forfeiture to the state of Iowa if the item was used for any of the following:

a. In exchange for a bribe intended to affect the outcome of a race.

b. In exchange for or to facilitate a violation of this chapter.

2. All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

(83 Acts, ch 187, § 26) SF 92

NEW section

99D.27 Start-up assistance fund. A fund shall be established in the office of the state treasurer to assist in the establishment of the commission. The account shall be funded by voluntary contributions from any person wishing to make a donation. The fund shall be used to expedite the establishment and operation of the commission. The commission shall not consider the granting of any licenses until at least fifty thousand dollars has been contributed to the fund. Whether a person has contributed to the account shall not be a factor in granting or denying a license. Contributions to the fund are refundable without interest upon application of the contributor.

(83 Acts, ch 187, § 27) SF 92

NEW section

99D.28 Use of industrial revenue bonds prohibited. Industrial revenue bonds shall not be used to construct, maintain, or repair a racetrack or racing facility in the state where pari-mutuel wagering is licensed.

(83 Acts, ch 187, § 28) SF 92

NEW section

CHAPTER 100

STATE FIRE MARSHAL

100.18 Smoke detectors.

1. As used in this section:

a. "*Dormitory*" means a residential building or portion of a building at an educational institution which houses students in rooms not individually equipped with cooking facilities.

b. "*Multiple-unit residential building*" means a residential building, an apartment house, or a portion of a building or an apartment house with four or more units, hotel, motel, dormitory, or rooming house.

c. "*Smoke detector*" means a device which detects visible or invisible particles of combustion and which incorporates control equipment and an alarm-sounding unit operated from a power supply either in the unit or obtained at the point of installation.

2. Except as provided in subsection 4, multiple-unit residential buildings, the construction of which is begun on or after July 1, 1981, shall include the installation of at least one smoke detector in the following areas of the designated multiple-unit residential buildings:

a. In each sleeping room and in each corridor of a hotel or motel.

b. In each sleeping room and in each corridor of a dormitory.

c. In each area giving access to the immediate vicinity of a sleeping room within a unit and in each corridor of a multiple-unit residential building not covered in paragraph "a" or "b".

Except as provided in subsection 4, all multiple-unit residential buildings shall be equipped with at least one smoke detector in the areas enumerated in this subsection by the end of three years after July 1, 1981.

3. An owner-occupied unit or room is exempt from the requirements of this section.

4. This section does not require the installation of smoke detectors in multiple-unit residential buildings which, on July 1, 1981, are equipped with heat detection devices or a sprinkler system with alarms approved by the state fire marshal.

This section does not require the installation of smoke detectors in hotels, motels, and dormitories equipped with an automatic smoke detection system approved by the state fire marshal.

5. The state fire marshal shall 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 noncompliance 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.

6. The inspection of a building or notification of compliance or noncompliance under this section is not the basis for a legal cause of action against the political subdivision, state fire marshal, the fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials due to a failure to discover a latent defect in the course of the inspection.

7. If a smoke detector is found to be inoperable the owner or manager of the multiple-unit residential building shall correct the situation within fourteen days after written notification to the owner or manager by the tenant, guest, roomer, state fire marshal, fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials. If the owner or manager fails to correct the situation within the fourteen days the tenant, guest, or roomer may cause the smoke detector to be repaired or purchase and install a single-station smoke detector required under this section and may deduct the repair cost or purchase price from the next rental payment or payments made by the tenant, guest, or roomer. However, a lessor or owner may require a lessee, tenant, guest, or roomer who has a residency of longer than thirty days to provide the battery for a battery operated smoke detector.

8. No person may render inoperable a smoke detector, which is required to be installed by this section, by tampering.

9. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

The state fire marshal shall notify the owners of newly constructed buildings on or after July 1, 1981, and the owners of existing buildings by the end of three years after July 1, 1981, by publication in a newspaper or newspapers of general circulation in this state, that the owners are required to bring the buildings into compliance with this section.

(83 Acts, ch 198, § 13) SF 531

Subsection 5 amended

CHAPTER 101A

EXPLOSIVE MATERIALS

101A.3 User's permit — how issued — violation.

1. User's permits to purchase, possess, transport, store, and detonate explosive materials shall be issued by the sheriff of the county or the chief of police of a city of ten thousand population or more where the possession and detonation will occur. If the possession and detonation are to occur in more than one county or city, then such permits must be issued by the sheriff or chief of police of each of such counties

or cities, except in counties and cities in which the explosives are possessed for the sole purpose of transporting them through such counties and cities. A permit shall not be issued unless the sheriff or chief of police having jurisdiction is satisfied that possession and detonation of explosive materials is necessary to the applicant's business or to improve his property. Permits shall be issued only to persons who, in the discretion of the sheriff or chief of police, are of good character and sound judgment, and have sufficient knowledge of the use and handling of explosive materials to protect the public safety. The commissioner of public safety shall prescribe, have printed, and distribute permit application forms to all local permit issuing authorities.

2. The user's permit shall state the quantity of explosive materials which the permittee may purchase, the amount he may have in his possession at any one time, the amount he may detonate at any one time, and the period of time during which the purchase, possession, and detonation of explosive materials is authorized. The permit shall also specify the place where detonation may occur, the location and description of the place where the explosive materials will be stored, if such be the case, and shall contain such other information as may be required under the rules and regulations of the commissioner of public safety. The permit shall not authorize purchase, possession, and detonation of a quantity of explosive materials in excess of that which is necessary in the pursuit of the applicant's business or the improvement of his property, nor shall such purchase, possession, and detonation be authorized for a period longer than is necessary for the specified purpose. In no event shall the permit be valid for more than thirty days from date of issuance but it may be renewed upon proper showing of necessity.

3. The user's permit may be revoked for any of the reasons specified in section 101A.2, subsection 1, for suspension or revocation of a commercial license.

4. It shall be unlawful for a person to willfully purchase, possess, transport, store, or detonate explosive materials unless such person is the holder of a valid permit issued pursuant to this section or a valid license issued pursuant to section 101A.2.

5. The sheriff or the chief of police shall charge a fee of three dollars for each permit issued. The money collected from permit fees shall be deposited in the county treasury or the general fund of the city.

(83 Acts, ch 123, § 53, 209) HF 628

Subsection 5 amended

101A.7 Inspection of storage facility. The licensee's or permittee's explosive storage facility shall be inspected at least once every six months by either the sheriff of the county where the facility is located or by the local police authority if the facility is located within a city of over ten thousand population. The facility may be examined at other times by the sheriff if he considers it necessary.

If the sheriff or local police authority find the facility to be improperly secured, the licensee or permittee shall immediately correct the improper security and, if not so corrected, the sheriff or local police authority shall immediately confiscate the stored explosives. If the explosives are confiscated by the local police authority, they shall be delivered to the sheriff. The sheriff shall hold confiscated explosives for a period of thirty days under proper security unless the period of holding is shortened pursuant to this section.

If the licensee or permittee corrects the improper security within the thirty-day period, the explosives shall be returned to the licensee or permittee after correction and after the licensee or permittee has paid to the county an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The amount of expense shall be determined by the sheriff.

If the improper security is not corrected during the thirty-day period, the sheriff shall deliver the explosives to the fire marshal for disposal and the license or permit shall be canceled. Such canceled license or permit shall not be reissued for a period of two years from the date of cancellation.

The licensee or permittee may obtain possession of the explosives from the sheriff during the thirty-day period for the purpose of disposing of them. The disposal procedure shall conform to the provisions of section 101A.9. The licensee or permittee shall first pay to the county an amount equal to the expense incurred by the county in storing the explosives during the period of confiscation. The amount of the expense shall be determined by the sheriff.

(83 Acts, ch 123, § 54, 55, 209) HF 628

Unnumbered paragraphs 3 and 5 amended

CHAPTER 107

STATE CONSERVATION COMMISSION

107.23 General duties. The commission shall protect, propagate, increase, and preserve the wild mammals, fish, birds, reptiles, and amphibians of the state and enforce by proper actions and proceedings the laws, rules, and regulations relating to them. The commission shall collect, classify, and preserve all statistics, data, and information as in its opinion tend to promote the objects of this chapter, conduct research in improved conservation methods, and disseminate information to residents and nonresidents of Iowa in conservation matters.

Upon the issuance of such data and information in printed form to private individuals, groups or clubs, the commission shall be entitled to charge therefor the actual cost of printing and publication as determined by the state printer.

(83 Acts, ch 168, § 1) HF 343

Unnumbered paragraph 1 amended

107.24 Specific powers. The commission is hereby authorized and empowered to:

1. Expend, as authorized by the general assembly under section 107.19, any and all moneys accruing to the fish and game protection fund from any and all sources in carrying out the purposes of this chapter; any Act, or Acts, not consistent with this provision are hereby repealed so far as they may apply to the fish and game protection fund.

2. Acquire by purchase, condemnation, lease, agreement, gift and devise lands or waters suitable for the purposes hereinafter enumerated, and rights of way thereto, and to maintain the same for the following purposes, to wit:

- a. Public hunting, fishing, and trapping grounds and waters to provide areas in which any person may hunt, fish, or trap in accordance with the provisions of the law and the regulations of the commission;

- b. Fish hatcheries, fish nurseries, game farms, and wild mammal, fish, bird, reptile, and amphibian refuges.

3. Extend and consolidate lands or waters suitable for the above purposes by exchange for other lands or waters and to purchase, erect and maintain buildings necessary to the work of the commission.

4. Capture, propagate, buy, sell, or exchange any species of wild mammal, fish, bird, reptile, and amphibian needed for stocking the lands or waters of the state, and to feed, provide for, and care for them.

5. The commission is hereby authorized to adopt and enforce such departmental rules governing procedure as may be necessary to carry out the provisions of this chapter; also to carry out any other laws the enforcement of which is vested in the commission.

6. The commission is hereby further authorized to adopt, publish and enforce such administrative orders as are authorized in section 109.38.

7. Pay the salaries, wages, compensation, traveling and other necessary expenses of the state conservation commissioners, state conservation director, officers and other employees of the commission, and to expend money for necessary supplies and

equipment, and to make such other expenditures as may be necessary for the carrying into effect the purposes of this chapter.

8. Control by shooting or trapping any wild mammal, fish, bird, reptile, and amphibian for the purpose of preventing the destruction of or damage to private or public property, but shall not go upon private property for that purpose without the consent of the owner or occupant.

9. Provide for the protection against fire and other destructive agencies on state and privately owned forests, parks, wildlife areas and other property under its jurisdiction, and to co-operate with federal and other state agencies in protection programs approved by the conservation commission, and with the consent of the owner on privately owned areas.

10. Provide conservation employees, when on duty, suitable uniforms, equipment, arms, and supplies.

11. Establish a program governing the harvesting and sale of American ginseng subject to the convention on international trade in endangered species of wild fauna and flora and adopt rules providing for the time and conditions for the harvesting of the ginseng, the registration of dealers and exporters, the records kept by dealers and exporters, and the certification of legal taking. The time for harvesting of wild ginseng shall not begin before September 15 or extend beyond November 1.

(83 Acts, ch 168, § 2, 3, 4) HF 343

Subsection 2, paragraph b, and subsections 4 and 8 amended

(83 Acts, ch 33, § 1) SF 42

Subsection 11 amended

CHAPTER 109

FISH AND GAME CONSERVATION

109.1 Definitions. Words and phrases as used in chapters 106 to 112 and such other chapters as relate to the subject matter of these chapters shall be construed as follows:

1. "*Closed season*" is that period of time during which hunting, fishing, trapping or taking is prohibited.

2. "*Open season*" is that period of time during which hunting, fishing, trapping or taking is permitted.

3. "*Measurement of fish*" is the length from end of nose to longest tip of tail.

4. "*Person*" shall mean any person, firm, partnership or corporation.

5. "*Sell*" or "*sale*" is selling, bartering, exchanging, offering or exposing for sale.

6. "*Possession*" is both active and constructive possession and any control of things referred to.

7. "*Transport*" or "*transportation*" is all carrying or moving or causing to be carried or moved.

8. "*Take*" or "*taking*" or "*attempting to take*" or "*hunt*" is any pursuing, or any hunting, fishing, killing, trapping, snaring, netting, searching for or shooting at, stalking or lying in wait for any game, animal, bird or fish protected by the state laws or regulations adopted by the commission whether or not such game be then subsequently captured, killed or injured.

9. "*Bag limit*" or "*possession limit*" is the number of any kind of game, fish, bird or animal or other wildlife form permitted to be taken or held in a specified time.

10. "*Contraband*" as used in the laws pertaining to the work of the commission shall mean anything, the possession of which was illegally procured, or the possession of which is unlawful.

11. "Alien" shall not be construed to mean any person who has applied for naturalization papers.

12. "Director" shall mean the regularly appointed director of the state conservation commission and wherever such director is authorized or required to do an act, unless otherwise provided, it shall be construed as authorizing performance by a regular assistant or duly authorized agent of such director.

13. "Commission" means the state conservation commission.

14. "Wild mammal" means a mammal and family of mammal listed in sections 109.40 and 109.41.

(83 Acts, ch 168, § 5) HF 343

NEW subsection 14

109.16 Taking by director for stocking and exchange. The director may take from the public waters of the state, at any time and in any manner, any fish for the purpose of propagating or restocking other waters, or exchanging with fish and wildlife agencies of other states, the federal government, or private fish hatcheries.

(83 Acts, ch 110, § 1) HF 341

Amended

109.42 Nongame protected. Protected nongame species include wild fish, birds, reptiles, and amphibians, and a product, egg, or offspring of them, and a dead body or part of a body. However, nongame does not include game, fish, fur-bearing animals, turtles, or frogs, as defined in this chapter. The commission shall designate by rule those species of nongame which by their abundance or habits are declared a nuisance, and these species shall not be protected.

(83 Acts, ch 168, § 6) HF 343

Struck and rewritten

109.107 Seining — closed waters. It shall be lawful to use seines, dip nets, trammel nets, gill nets, basket traps, hoop nets, wing nets, pound, fyke and trap nets and trotlines in the Missouri river or Mississippi river, except as hereinafter provided in this section but only when such nets, seines, traps or trotlines have been properly licensed, and properly tagged, in accordance with the provisions of chapter 110, and of this section, and only when such nets, seines, traps or trotlines comply with the provisions of law and at such times and in such manner and for the taking of such species of fish as are permitted by law.

It shall be unlawful for any person to place any net or seine, trap or trotline of any kind within one hundred yards of the mouth of any tributary stream emptying into the Mississippi river or Missouri river or within three hundred yards from the farthest projection of any dam in the Mississippi river and Missouri river.

All licensed nets, seines, basket traps or trotlines shall have attached a metal tag identifying the equipment and license for its use. Tags must at all times be attached to commercial fishing gear and officers appointed by the commission shall have authority to confiscate any such commercial fishing gear when found in use without such tags attached. Identification tags shall be furnished by the commission and a charge of ten cents shall be made for each tag and such tags shall be renewed annually.

(83 Acts, ch 110, § 2) HF 341

Unnumbered paragraph 4 struck

109.113 Size limits. The conservation commission shall promulgate rules determining the size limit for any person to take or catch catfish with commercial fishing gear. However, a length limitation promulgated under this section does not prohibit the commission or director from lawfully taking catfish under section 109.16.

(83 Acts, ch 110, § 3) HF 341

Amended

CHAPTER 110

FISH AND GAME LICENSES, CONTRABAND ARTICLES AND GUNS

110.12 Fees. The county recorder shall be responsible for all fees for the issuance of hunting and fishing licenses sold through his office, or issued through his office and sold by others. All unused license blanks shall be surrendered to the county recorder upon his demand.

The county recorder may require that a writing fee of twenty-five cents be charged for each license sold by the county recorder's office.

(83 Acts, ch 123, § 56, 209) HF 628
Unnumbered paragraph 2 amended

110.24 License not required. Owners or tenants of land, and their children, may hunt, fish or trap upon such lands and may shoot ground squirrels, gophers or woodchucks upon adjacent roads without securing a license so to do; except, special licenses to hunt deer and wild turkey shall be required by owners and tenants but they shall not be required to have a special wild turkey license to hunt wild turkey on a game breeding and shooting preserve licensed under chapter 110A.

Upon written application to the state conservation commission, one of the following persons shall be issued a deer hunting license:

1. The owner of a farm unit; or
2. One member of the family of the farm owner; or
3. The tenant residing on the farm unit; or
4. One member of the family of the tenant, who resides on the farm unit.

The deer hunting permit shall be valid only for hunting on the farm unit upon which the licensee to whom it is issued resides.

The application required herein shall be on forms furnished by the conservation commission and shall be without fee.

Deer hunting licenses issued under this section shall be subject to all other provisions of the laws and regulations pertaining to the taking of deer.

No resident of the state under sixteen years of age or a nonresident of the state under fourteen years of age shall be required to have a license to fish in the waters of the state.

No license shall be required of minor pupils of the state school for the blind, state school for the deaf, nor of minor residents of other state institutions under the control of a director of a division of the department of human services, nor shall any person who is on active duty with the armed forces of the United States, on authorized leave, and a legal resident of the state of Iowa, be required to have a license to hunt or fish in this state. No license shall be required of residents of county care facilities or any person who is receiving old-age assistance under chapter 249.

No resident of the state under sixteen years of age shall be required to have a license to hunt game if accompanied by his or her parent or guardian or in company with any other competent adult with the consent of the said parent or guardian, if the said person accompanying said minor shall possess a valid hunting license, providing, however, that there is one licensed adult accompanying each person under sixteen years of age.

No person having a dog entered in a licensed field trial shall be required to have a hunting license to participate in the event or to exercise his dog on the area on which the field trial is to be held during the twenty-four hour period immediately preceding the trial.

The commission shall issue without charge a special fishing license to residents of Iowa sixteen years or more of age who the commission finds are mentally or physically severely handicapped. The commission is hereby authorized to prepare an application to be used by the person requesting handicapped status, which would require that his attending physician sign the form declaring the person handicapped, and eligible for exempt status.

No person shall be required to have a special wild turkey license to hunt wild turkey on a game breeding and shooting preserve licensed under chapter 110A.

(83 Acts, ch 96, § 59, 159) SF 464

Effective October 1, 1983

Unnumbered paragraph 7 amended

CHAPTER 111

CONSERVATION AND PUBLIC PARKS

111.25 Leases. The commission may recommend that the executive council lease property under the commission's jurisdiction. All leases shall reserve to the public of the state the right to enter upon the property leased for any lawful purpose. The council may, if it approves the recommendation and the lease to be entered into is for five years or less, execute the lease in behalf of the state and commission. If the recommendation is for a lease in excess of five years, with the exception of agricultural lands specifically dealt with in Article I, section 24 of the Constitution of the State of Iowa, the council shall advertise for bids. If a bid is accepted, the lease shall be let or executed by the council in accordance with the most desirable bid. The lease shall not be executed for a term longer than fifty years. Any such leasehold interest, including any improvements placed on it, shall be listed on the tax rolls as provided in chapters 428 and 443; assessed and valued as provided in chapter 441; taxes shall be levied on it as provided in chapter 444 and collected as provided in chapter 445; and the leasehold interest is subject to tax sale, redemption, and apportionment of taxes as provided in chapters 446, 447 and 448. The lessee shall discharge and pay all taxes.

(83 Acts, ch 101, § 12) SF 136

Amended

111.27 Management by municipalities. The commission may enter into an agreement or arrangement with the board of supervisors of a county or the council of a city whereby the county or city shall undertake the care and maintenance of any lands under the jurisdiction of the commission. Counties and cities may maintain the lands and pay the expense of maintenance. A city may pay the expense from the general fund.

(83 Acts, ch 123, § 57, 209) HF 628

Amended

111.62 Copy to department. A copy of the petition and the applications, plans, and specifications required under chapter 455B shall be filed with the department of water, air and waste management and any approval or permit required under chapter 455B shall be obtained prior to the establishment of the water recreational area of the granting of a permit for the area by the state conservation commission.

(83 Acts, ch 101, § 13) SF 136

Amended

CHAPTER 111A

COUNTY CONSERVATION BOARD

111A.6 Funds — tax levy — gifts — anticipatory bonds. Upon request of the county conservation board, the board of supervisors shall establish a reserve for county conservation land acquisition and capital improvement projects. The board of supervisors may periodically credit an amount of money to the reserve. Moneys credited to the reserve shall remain in the reserve until expended for such projects upon warrants requisitioned by the county conservation board.

Annually, the total amount of money credited to the reserve, plus moneys appropriated for conservation purposes from sources other than the reserve, shall not be less than the amount of gifts, contributions, and bequests of money, rent, licenses, fees, charges, and other revenues received by the county conservation board. However, moneys given, bequeathed, or contributed upon specified trusts shall be held, appropriated, and expended in accordance with the trust specified.

The county auditor shall keep a complete record of the appropriations and shall issue warrants on them only on requisition of the county conservation board. The county conservation board is subject to the contract letting procedures in section 331.341, subsections 1, 2, and 4. Upon request of the county conservation board, the board of supervisors may issue general county purpose bonds for the purposes in section 331.441, subsection 2, paragraph "c", subparagraph (2), as provided in chapter 331, division IV, part 3.

(83 Acts, ch 123, § 58, 209) HF 628

Struck and rewritten

CHAPTER 115

CERTIFIED SHORTHAND REPORTERS

Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495)

CHAPTER 116

PUBLIC ACCOUNTANTS

116.3 Board of accountancy members — funds — reports — rules.

1. There is established a board of accountancy. The board of accountancy shall consist of eight members, five of whom shall be certified public accountants, one of whom shall be from the accounting practitioner advisory committee, and two of whom shall not be certified public accountants or licensed accounting practitioners and who shall represent the general public. A certified or licensed member shall be actively engaged in practice as a certified public accountant or accounting practitioner and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified public accountants may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations. A board member shall not be required to be a member of any professional association or society composed of certified public accountants. Members, except the member from the accounting practitioner advisory committee, shall be appointed by the governor to staggered terms, subject to confirmation by the senate. The board member from the accounting practitioner advisory committee shall serve a one-year term and must be the most senior member of the accounting practitioner advisory committee who has not served a term on the board of accountancy in the previous two years. "Board" as used in this chapter means the board of accountancy established by this section. Upon the expiration of each of the terms and of each

succeeding term, except that of the member from the accounting practitioner advisory committee, a successor shall be appointed for a term of three years beginning and ending as provided in section 69.19. Members except the member from the accounting practitioner advisory committee shall serve a maximum of three terms or nine years, whichever is less. Vacancies occurring in the membership of the board for any cause shall be filled in the same manner by the governor for the unexpired term and are subject to senate confirmation. The public members of the board of accountancy shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

A member of the board whose term has expired shall continue to serve until the member's successor is appointed and qualified.

The governor shall remove from the board any member whose certificate as a certified public accountant has been revoked or suspended.

2. The board shall elect annually a chairman, a secretary, and a treasurer from its members.

The board shall meet as often as deemed necessary, but shall hold at least one meeting per year at the seat of government.

The board may adopt regulations for the orderly conduct of its affairs and for the administration of this chapter.

A majority of the members of the board shall constitute a quorum for the transaction of business.

The board shall keep records of its proceedings, and in any proceeding in court arising out of or founded upon any provision of this chapter, copies of its records certified as correct shall be admissible in evidence to prove the contents of the records.

The board may employ such personnel and arrange for such assistance as it may require for the performance of its duties. The board may employ a secretary whose salary shall be established by the governor with the approval of the executive council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Each member of the board shall be paid a per diem set by the board in an amount not to exceed forty dollars per day for each day the member is performing official duties and shall be reimbursed for his actual and necessary expenses, including travel, incurred in the discharge of his official duties.

3. All fees and other moneys received by the board, pursuant to the provisions of this chapter, shall be paid monthly to the treasurer of state.

Warrants for the payment of the expenses of the board or its members provided by this chapter shall be issued by the state comptroller drawn upon funds appropriated to the board upon presentation of vouchers drawn by the secretary or treasurer of the board.

The board shall make a biennial report to the governor of its proceedings, with an account of all moneys received and disbursed, a list of the names of certified public accountants, public accountants, and accounting practitioners whose certificates, permits to practice, or licenses have been revoked or suspended, and such other information as it may deem proper or the governor requests.

4. The board may promulgate rules of professional conduct appropriate to establishing and maintaining high standards of integrity and dignity in the practice as a certified public accountant, public accountant, or accounting practitioner. Rules shall be adopted relating to the following matters:

a. Rules relating to the propriety of opinions on financial statements by a certified public accountant or public accountant who is not independent.

b. Actions discreditable to the practice as a certified public accountant, public accountant, or accounting practitioner.

c. Rules relating to the professional confidences between a certified public accountant, public accountant, or accounting practitioner and his client.

d. Contingent fees.

e. Rules relating to technical competence and the expression of opinions on financial statements.

f. Rules relating to the failure to disclose a material fact known to the certified public accountant or public accountant, or accounting practitioner.

g. Rules relating to material misstatement known to the certified public accountant, public accountant, or accounting practitioner.

h. Rules relating to negligent conduct in an examination or in making a report on an examination.

i. Rules relating to the failure to direct attention to any material departure from generally accepted accounting principles.

5. A certified public accountant, public accountant, or accounting practitioner shall not commit and shall not permit persons associated with him or who are under his supervision to commit any of the following acts:

a. Pay a commission, brokerage, or other participation in the fees or profits of professional work directly or indirectly to the laity.

b. Directly or indirectly accept commission, brokerage, or other participation in the fees, charges or profits of work recommended or turned over to the laity as incident to services for clients.

c. Permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by him, would place him in violation of rules of the board adopted pursuant to this chapter.

6. The board shall establish rules relative to the conduct of practice as a certified public accountant, public accountant, and accounting practitioner in respect to the enumerated items in subsections 4 and 5, but such direction shall not be construed as a limitation upon the rights of the board to make and adopt any rules and regulations relating to the rules of conduct of certified public accountants, public accountants, or accounting practitioners, which are not specifically enumerated in this chapter.

7. The board may issue further rules and regulations, including but not limited to rules of professional conduct, pertaining to corporations practicing public accounting, which it deems consistent with or required by the public welfare. The board may prescribe rules governing the style, name, and title of corporations and governing the affiliation of corporations with other organizations.

Regulations adopted by the board shall not be in conflict with the Iowa Professional Corporation Act, provided in chapter 496C.

(83 Acts, ch 92, § 1) HF 494

Subsection 1, unnumbered paragraph 1 amended

116.4 Applications. Applications for certification as a certified public accountant and licensure as an accounting practitioner shall be on forms prescribed and furnished by the board. Character references may be required, but shall not be obtained from certified public accountants or accounting practitioners. An applicant shall not be ineligible for licensure because of age, citizenship, sex, race, religion, marital status or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to practice of accountancy.

(83 Acts, ch 92, § 2) HF 494

Struck and rewritten

116.5 Granting the certificate. The certificate of "certified public accountant" shall be granted by the board to any person who meets all of the following requirements:

1. Is a resident of this state or has a place of business in this state, or, as an employee, is regularly employed in this state.

2. Has a baccalaureate degree conferred by a college or university recognized by

the board, with a concentration in accounting, or what the board determines to be substantially the equivalent of those requirements; or with a nonaccounting concentration, supplemented by what the board determines to be substantially the equivalent of an accounting concentration, including related courses in other areas of business administration; or is a graduate of a high school having at least a four-year course of study or its equivalent as determined by the board of accountancy and has had three years' continuous experience under the direct supervision of a certified public accountant holding a current permit to practice, which experience shall include a significant amount of accounting work involving third-party reliance on financial statements.

3. Has passed a written examination in accounting and auditing, and such related subjects as the board determines to be appropriate.

If an applicant for certification as a certified public accountant does not successfully complete the required portions of the examination required by subsection 3 but does successfully complete the portions of the examination required for licensure as an accounting practitioner, the applicant may apply for a license as an accounting practitioner. The applicant remains eligible to retake the examination for certification as a certified public accountant in accordance with this section.

None of the education or experience requirements in subsection 2 shall apply to a candidate who within four years after July 1, 1975, fulfills the education and experience requirements provided for by law prior to the effective date of this chapter and passes the examination required in subsection 3.

The examination described in subsection 3 shall be conducted by the certified public accountant members of the board and shall take place as often as the board shall determine to be desirable, but shall be held at least once each year. All examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. Applicants who fail the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning his examination grade and subject areas or questions which he failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

The board shall make such use of all or any part of the uniform certified public accountants' examination or advisory grading service, or both, as it deems appropriate to assist it in performing its duties under this chapter.

The board may admit to the examination described in subsection 3 any candidate who will complete the educational requirements for a baccalaureate degree within one hundred twenty days immediately following the date of the examination. However, the board shall not report the results of the examination until the candidate has met the educational requirements.

A candidate for the certificate of certified public accountant who has successfully completed the examination under subsection 3 and the educational requirements under subsection 2 shall receive a certificate as a certified public accountant.

The board may by rule provide for granting a credit to a candidate for satisfactory completion of a written examination in one or more of the subjects prescribed by the board in this state, but conducted by the licensing authority in another state, if when the candidate took the examination in another state, he was not a resident of this state, had no place of business in this state, and, as an employee, was not employed regularly in this state.

Such rules shall include such requirements as the board determines to be appropriate in order that any examination approved as a basis for any such credit shall, in the judgment of the board, be at least as thorough as that included in the most recent examination given by the board at the time of the granting of such credit.

The board may by rule prescribe the terms and conditions under which a candidate who passes one or more subjects of the examination prescribed by the board may be re-examined in only the remaining subjects, with credit for the subjects previously passed.

It may also provide by rule for a reasonable waiting period for a candidate's re-examination in a subject he has failed.

The board shall charge each candidate an examination fee, to be determined by the board which shall be based upon the annual cost of administering the examination. Fees for re-examination or partial examination under subsection 3 shall also be charged by the board in amounts determined by it. The applicable fee shall be paid by the candidate at the time he applies for examination or re-examination.

Any person who has received from the board a certificate as a certified public accountant and who is currently registered under section 116.20, shall be styled and known as a "certified public accountant", and may also use the abbreviation "CPA".

Persons who, on July 1, 1975, hold certified public accountant certificates issued under the laws of this state shall not be required to obtain additional certificates under this chapter, but shall otherwise be subject to all provisions of this chapter; and such certificates shall, for all purposes, be considered certificates issued under this chapter, and subject to the provisions of this chapter.

The board may, in its discretion, waive the examinations under subsection 3 and may issue a certificate as certified public accountant to any person possessing what the board determines to be substantially equivalent of the applicable qualifications under subsection 2 and who is the holder of a certificate as a certified public accountant, then in full force and effect, issued under the laws of another state, or is the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect; or who, as a holder of such certificate, license, or degree shall have been in continuous practice thereunder for at least seven years.

(83 Acts, ch 92, § 3) HF 494

NEW unnumbered paragraph 2 (following subsection 3)

116.10 Applications. Repealed by 83 Acts, ch 92, § 4 (HF 494)

CHAPTER 117

REAL ESTATE BROKERS AND SALESPERSONS

117.7 Acts excluded from provisions. The provisions of this chapter shall not apply to the sale, exchange, purchase, rental, or advertising of any real estate in any of the following cases:

1. Owners or lessors, or to the regular employees thereof, with respect to the property owned and leased where such acts are performed in the regular course of or incident to the management of property owned and the investment therein.

2. By any person acting as attorney in fact under a duly executed and acknowledged power of attorney from the owner, authorizing the final consummation and execution of any contract for the sale, leasing, or exchange of real estate.

3. Nor shall the provisions of this chapter apply to an attorney admitted to practice in Iowa.

4. The acts of one while acting as a receiver, trustee in bankruptcy, administrator, executor, guardian, or under court order or while acting under authority of a deed of trust, trust agreement, or will.

5. The acts of an auctioneer in conducting a public sale or auction. The auctioneer's role must be limited to establishing the time, place, and method of an auction, advertising the auction including a brief description of the property for auction and

the time and place for the auction, and crying the property at the auction. If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 117.3 and 117.6, then the requirements of this chapter do apply to the auctioneer.

6. An isolated real estate rental transaction by an owner's representative on behalf of said owner; such transaction not being made in the course of repeated and successive transactions of a like character.

(83 Acts, ch 43, § 1) HF 278

Subsection 5 amended

117.29 Revocation or suspension. A license to practice the profession of real estate broker and salesman may be revoked or suspended when the licensee is guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his or her profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the profession or occupation of the licensee or conviction of a felony that would affect the licensee's ability to practice the profession of real estate broker and salesperson. A copy of the record of conviction or plea of guilty is conclusive evidence.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of the provisions of this Act.*

The revocation of a broker's license shall automatically suspend every license granted to any person by virtue of his or her employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. The new license shall be issued upon payment of a fee in an amount determined by the commission based upon the administrative costs involved, if granted during the same license period in which the original license was granted.

A real estate broker or salesperson who is an owner or lessor of property or an employee of an owner or lessor may have his or her license revoked or suspended for violations of this section or section 117.34, except subsections 4, 5, 6 and 9, with respect to that property.

(83 Acts, ch 101, § 14) SF 136

*See 67GA, ch 95, § 12 and 250 Ia 721

Subsection 5 amended

CHAPTER 120

WATCHMAKERS AND REPAIRMEN

Repealed by 83 Acts, ch 196, § 11 (SF 530)

CHAPTER 122

ORGANIZATIONS SOLICITING PUBLIC DONATIONS

122.5 Enforcement. The secretary of state shall enforce the provisions of this chapter and may call to his aid the attorney general, the county attorney of any county, and any peace officer in the state, for the purpose of investigation and prosecution. He may call upon the extension division of the state University of Iowa and the commissioner of the department of human services for assistance.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 123

IOWA BEER AND LIQUOR CONTROL ACT

123.20 Powers. The director, in executing departmental functions, shall have the following duties and powers:

1. To purchase alcoholic liquors for resale by the department in the manner set forth in this chapter.

2. To establish, maintain, or discontinue state liquor stores and to determine the cities in which such stores shall be located. However, no liquor store shall be established within three hundred feet of any public or private educational institution, except that local authorities may by ordinance reduce such minimum distance.

3. To rent, lease, or equip any building or any land necessary to carry out the provisions of this chapter.

4. To lease all plants and lease or buy equipment necessary to carry out the provisions of this chapter.

5. To appoint vendors, clerks, agents, or other employees required for carrying out the provisions of this chapter; to dismiss such employees for cause; to assign such employees to such divisions as may be created by the director within the department; and to designate their title, duties, and powers. All employees of the department, except occasional or part-time employees and the director, shall be subject to the provisions of chapter 19A.

6. To grant and issue beer permits, special permits, liquor control licenses, and other licenses; and to suspend or revoke all such permits and licenses for cause under this chapter.

7. To license, inspect, and control the manufacture of beer and alcoholic liquors and regulate the entire beer and liquor industry in the state.

8. To accept intoxicating liquors ordered delivered to the Iowa beer and liquor control department pursuant to section 127.8, subsection 1, and offer such intoxicating liquors for sale through the state liquor stores, unless the director determines that such intoxicating liquors may be adulterated or contaminated. If the director determines that such intoxicating liquors may be adulterated or contaminated the director shall order their destruction.

9. To appoint a designee to conduct a public hearing upon the establishment or discontinuance of a state liquor store within the city affected.

(83 Acts, ch 157, § 1) SF 73
NEW subsection 9

123.23 State liquor stores. The department shall establish and maintain in any city which the director deems advisable, a state liquor store or stores for storage and sale of alcoholic liquor in accordance with this chapter. The department may, from time to time, as determined by the director, fix the prices of the different classes, varieties, or brands of alcoholic liquor to be sold. Prior to a decision to establish, relocate or discontinue a state liquor store, the director shall appoint a designee to conduct a public hearing on the decision within the city affected.

(83 Acts, ch 157, § 2) SF 73
Amended

123.36 Liquor fees — Sunday sales. The following fees shall be paid to the department annually for special liquor permits and liquor control licenses issued under sections 123.29 and 123.30 respectively:

1. Special liquor permits, the sum of five dollars.

2. Class "A" liquor control licenses, the sum of six hundred dollars, except that for class "A" licenses in cities of less than two thousand population, and for clubs of less than two hundred fifty members, the license fee shall be four hundred dollars; however, the fee shall be two hundred dollars for any club which is a post, branch, or chapter of a veterans organization chartered by the Congress of the United States,

if such club does not sell or permit the consumption of alcoholic beverages or beer on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages or beer on the premises more than one day in any week.

3. Class "B" liquor control licenses, the sum as follows:

a. Hotels or motels located within the corporate limits of cities of ten thousand population and over, one thousand three hundred dollars.

b. Hotels and motels located within the corporate limits of cities of over three thousand and less than ten thousand population, one thousand fifty dollars.

c. Hotels and motels located within the corporate limits of cities of three thousand population and less, eight hundred dollars.

d. Hotels and motels located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail.

4. Class "C" liquor control licenses, the sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand population and over, one thousand three hundred dollars.

b. Commercial establishments located within the corporate limits of cities of over fifteen hundred and less than ten thousand population, nine hundred fifty dollars.

c. Commercial establishments located within the corporate limits of cities of fifteen hundred population or less, six hundred dollars.

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail.

5. Class "D" liquor control licenses, the following sums:

a. For watercraft, one hundred fifty dollars.

b. For trains, five hundred dollars.

c. For air common carriers, each company shall pay a base annual fee of five hundred dollars and, in addition, shall quarterly remit to the department an amount equal to seven dollars for each gallon of alcoholic liquor sold, given away, or dispensed in or over this state during the preceding calendar quarter. The class "D" license fee and tax for air common carriers shall be in lieu of any other fee or tax collected from such carriers in this state for the possession and sale of alcoholic liquor and beer.

6. Any club, hotel, motel, or commercial establishment holding a liquor control license for whom the sale of goods and services other than alcoholic liquor or beer constitutes fifty percent or more of the gross receipts from the licensed premises, subject to the provisions of section 123.49, subsection 2, paragraph "b", may sell and dispense alcoholic liquor to patrons on Sunday for consumption on the premises only, and beer for consumption on or off the premises between the hours of noon and ten p.m. on Sunday. For the privilege of selling beer and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license. The department shall prescribe the nature and the character of the evidence which shall be required of the applicant under this subsection.

7. Class "C" liquor control licenses which limit sales of alcoholic liquor to wine containing not more than seventeen percent alcohol by weight, a sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand population and over, four hundred fifty dollars.

b. Commercial establishments located within the corporate limits of cities of over fifteen hundred and less than ten thousand population, three hundred dollars.

c. Commercial establishments located within the corporate limits of cities of fifteen hundred population or less, one hundred fifty dollars.

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail.

8. The department shall credit all fees to the beer and liquor control fund. The department shall remit to the appropriate local authority, a sum equal to sixty-five percent of the fees collected for each class "A", class "B", or class "C" license except special class "C" licenses, covering premises located within the local authority's jurisdiction. The department shall remit to the appropriate local authority a sum equal to seventy-five percent of the fees collected for each special class "C" license covering premises located within the local authority's jurisdiction. The appropriate local authority to receive the fee collected for the privilege authorized under subsection 6 is the appropriate county which shall use it only for the care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 125.

(83 Acts, ch 123, § 59, 209) HF 628
Subsection 8 amended

123.143 Distribution of funds. The revenues obtained from permit fees and the barrel tax collected under the provisions of this chapter shall be distributed as follows:

1. All retail beer permit fees collected by any local authority at the time application for the permit is made shall be retained by the local authority. A certified copy of the receipt for the permit fee shall be submitted to the department with the application and the local authority shall be notified at the time the permit is issued. Those amounts retained by the appropriate local authority out of the fee collected for the privilege authorized under section 123.134, subsection 5, shall be used only for the care and treatment of persons admitted or committed to the alcoholic treatment center at Oakdale or any facilities as provided in chapter 125.

2. All permit fees and taxes collected by the department under this division shall accrue to the state general fund, except as otherwise provided.

(83 Acts, ch 123, § 60, 209) HF 628
Subsection 1 amended

CHAPTER 125

CHEMICAL SUBSTANCE ABUSE

125.10 Duties of director. The director shall:

1. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan.

2. Develop, encourage, and foster state-wide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

3. Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers and intoxicated persons.

4. Co-operate with the department of human services in establishing and conducting programs to provide treatment for substance abusers and intoxicated persons.

5. Co-operate with the department of public instruction, boards of education, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance abuse

and the treatment of substance abusers and intoxicated persons, and in preparing curriculum materials thereon for use at all levels of school education.

6. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

7. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

8. Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in treatment of substance abusers and intoxicated persons.

9. Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers and intoxicated persons, and serve as a clearing house for information relating to substance abuse.

10. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

11. Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers and intoxicated persons, said plan to be co-ordinated with health systems agencies.

12. Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

13. Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers, to encourage substance abusers to voluntarily undergo treatment.

14. Co-operate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

15. Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers and intoxicated persons and to provide them with adequate and appropriate treatment, and may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

16. Encourage all health and disability insurance programs to include substance abuse as a covered illness.

17. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse and substance abusers and intoxicated persons.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 4 amended

125.43 Funding at mental health institutes. Chapter 230 shall govern the determination of the costs and payment for treatment provided to substance abusers in a mental health institute under the department of human services, except that the charges shall not constitute a lien on any real estate owned by persons legally liable for support of the substance abuser and the daily per diem shall be billed at twenty-five percent. Beginning July 1, 1977, the superintendent of a state hospital shall total only those expenditures which can be attributed to the cost of providing inpatient treatment to substance abusers for purposes of determining the daily per diem. The provisions of section 125.48* shall govern the determination of who is legally liable for the cost of care, maintenance, and treatment of a substance abuser and of the amount for which the person is liable.

(83 Acts, ch 96, § 157, 159) SF 464

*Section 125.48, Code 1979; repealed by 68GA, ch 1003, § 11; see § 125.44

Amended

125.45 Counties to share cost.

1. Except as provided in section 125.43, each county shall pay for the remaining twenty-five percent of the cost of the care, maintenance, and treatment under this chapter of residents of that county. The commission shall establish guidelines for use by the counties in estimating the amount of expense which the county will incur each year. The facility shall certify to the county of residence once each month twenty-five percent of the unpaid cost of the care, maintenance, and treatment of a substance abuser. However, the approval of the board of supervisors is required before payment is made by a county for costs incurred which exceed a total of five hundred dollars for one year for treatment provided to any one substance abuser, except that approval is not required for the cost of treatment provided to a substance abuser who is detained pursuant to section 125.91. A facility may, upon approval of the board of supervisors, submit to a county a billing for the aggregate amount of all care, maintenance, and treatment of substance abusers who are residents of that county for each month. The board of supervisors may demand an itemization of billings at any time or may audit them.

2. The board of supervisors shall upon receipt of the list of persons treated at any facility make a determination whether each such person or the persons legally liable for his or her support are able to pay the charges for the care and treatment at the facility. If the board finds such a person or the persons legally liable for his or her support are presently unable to pay for the treatment, it shall direct the auditor not to index the name of that person, as would otherwise be required by section 125.50. However, the board may review its finding with respect to any person at any subsequent time at which another similar list is certified upon which that person's name appears. If the board finds upon review that that person or those legally liable for his or her support are presently able to pay for the treatment, that finding shall apply only to charges stated upon the list then before the board and any subsequent charges similarly certified, unless and until the board again changes its findings.

(83 Acts, ch 123, § 61, 209) HF 628
Subsection 1 amended

125.47 Disputes over payment. In the event any county to which certification of the cost of care, maintenance, and treatment of a substance abuser is made, disputes that such substance abuser has residence in that county, it shall immediately notify the facility that such dispute exists. The director shall immediately investigate the facts and determine in which county the patient has residence. The director shall certify the determination to the county, if any, wherein it is found the patient has residence and to the facility. A county certified by the director to be the county of residence shall reimburse the facility as provided in this chapter. If the director finds that the residence of a substance abuser at the time of admission was in another state or country or that the person is unclassified with respect to residence, then the department shall pay for that portion of the patient's care, maintenance, and treatment that the patient's county of residence would have been liable to pay. For purposes of this section, a "facility" does not include a mental health institute under the control of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

125.49 Transfer from county fund. The county auditor upon receipt of certification by the facility as required by section 125.45 shall enter the amount to the credit of the facility and issue a notice authorizing the county treasurer to transfer the amount from the county fund to the credit of the facility, which notice shall be filed by the treasurer as authority for making the transfer, and the amount transferred shall be included in the auditor's next remittance to the facility.

(83 Acts, ch 123, § 62, 209) HF 628
Amended

125.76 Appointment of counsel for applicant. The applicant, if not the county attorney, may apply for the appointment of counsel if financially unable to employ an attorney to assist the applicant in presenting evidence in support of the application for commitment. If the applicant applies for the appointment of counsel, the application shall include the submission of a financial statement as required under section 815.9.

(83 Acts, ch 186, § 10044, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

(83 Acts, ch 101, § 15) SF 136

See Code editor's note at the end of this Supplement

Amended

125.94 Supreme court rules. The supreme court may prescribe rules of pleading, practice, and procedure and the forms of process, writs, and notices under section 602.4201, for all commitment proceedings in a court of this state under this chapter. The rules shall be drawn for the purpose of simplifying and expediting the proceedings, so far as is consistent with the rights of the parties involved. The rules shall not abridge, enlarge, or modify the substantive rights of a party to a commitment proceeding under this chapter.

(83 Acts, ch 186, § 10045, 10201) SF 495

Amended

CHAPTER 127

SEIZURE AND SALE OF CONVEYANCES

127.17 Costs. When a conveyance is requisitioned by the state department of justice, the department shall pay the court costs and the expense incurred by the county or the sheriff in keeping the conveyance.

(83 Acts, ch 186, § 10046, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

127.20 Sale of conveyance. Prior to placing the conveyance for sale to the general public, the sheriff shall permit an owner or lien holder having a property interest of fifty percent or more in the conveyance the opportunity to purchase the property interest forfeited. If the owner or lien holder does not exercise an option under this section or if an owner or lien holder does not exist, the conveyance shall be sold at public auction with the proceeds first being applied to the owners and lien holders who have not had their property interest forfeited and applied to the expenses of keeping the conveyance, and any remaining funds shall be conveyed by the clerk of court to the treasurer of state for distribution under section 602.8107.

(83 Acts, ch 186, § 10047, 10201, 10204) SF 495

Amendment is void July 1, 1984; 83 Acts, ch 186, § 10204 (SF 495)

See Code editor's note to section 32.2 at the end of this Supplement; corrective legislation may be required

Amended

127.21 School fund. Repealed by 83 Acts, ch 186, § 10203, 10204. (SF 495)

See following amendment and Code editor's note to section 32.2 at the end of this Supplement

127.21 Proceeds. Any balance of the proceeds shall be paid by the sheriff to the treasurer of state for deposit in the general fund of the state.

(83 Acts, ch 185, § 3, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; see 83 Acts, ch 186, § 10204, subsec 1 (SF 495)

See preceding repeal and Code editor's note to section 32.2 at the end of this Supplement; corrective legislation may be required

Amended

127.22 Duplicate receipts. Repealed by 83 Acts, ch 186, § 10203, 10204; (SF 495) and by 83 Acts, ch 185, § 61, 62. (HF 562)

HF 562 is effective July 1, 1984

See Code editor's note to section 32.2 at the end of this Supplement

CHAPTER 135

STATE DEPARTMENT OF HEALTH

135.11 Powers and duties. The commissioner of public health shall be the head of the "State Department of Health", which shall:

1. Exercise general supervision over the public health, promote public hygiene and sanitation, and unless otherwise provided, enforce the laws relating to the same.
2. Conduct campaigns for the education of the people in hygiene and sanitation.
3. Issue monthly health bulletins containing fundamental health principles and other health data deemed of public interest.
4. Make investigations and surveys in respect to the causes of disease and epidemics, and the effect of locality, employment, and living conditions upon the public health. For this purpose the department may use the services of the experts connected with the state hygienic laboratory at the state University of Iowa.
5. Make inspections of the sanitary conditions in the educational, charitable, correctional, and penal institutions in the state. However, the secretary of agriculture shall make inspections for sanitation of the areas where food is prepared or served in the adult penal and correctional facilities and the juvenile facilities as provided in section 159.5, subsection 14.
6. Make inspections of the sanitary conditions in any locality of the state upon written petition of five or more citizens from said locality, and issue directions for the improvement of the same, which shall be executed by the local board.
7. Establish, publish, and enforce a code of rules governing the installation of plumbing in cities and amend the same when deemed necessary in the manner prescribed in section 135.12.
8. Exercise general supervision over the administration of the housing law and give aid to the local authorities in the enforcement of the same, and it shall institute in the name of the state such legal proceedings as may be necessary in the enforcement of said law.
9. Establish stations throughout the state for the distribution of antitoxins and vaccines to physicians, druggists, and other persons, at cost. All antitoxin and vaccine thus distributed shall be labeled "Iowa State Department of Health."
10. Exercise general supervision over the administration and enforcement of the venereal disease law, chapter 140.
11. Exercise sole jurisdiction over the disposal and transportation of the dead bodies of human beings and prescribe the methods to be used in preparing such bodies for disposal and transportation.
12. Exercise general supervision over the administration and enforcement of the vital statistics law, chapter 144.
13. Enforce the law relative to the "Practice of Certain Professions Affecting the Public Health," Title VIII.
14. Establish and maintain such divisions in the department as are necessary for the proper enforcement of the laws administered by it, including a division of contagious and infectious diseases, a division of venereal diseases, a division of housing, a division of sanitary engineering, a division of vital statistics, and a division

of examinations and licenses; but the various services of the department shall be so consolidated as to eliminate unnecessary personnel and make possible the carrying on of the functions of the department under the most economical methods.

15. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of this title and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

16. Establish standards for, issue permits, and exercise control over the distribution of venereal disease prophylactics distributed by methods not under the direct supervision of a physician licensed under chapter 148, 150 or 150A, or a pharmacist licensed under chapter 147. Any person selling, offering for sale, or giving away any venereal disease prophylactics in violation of the standards established by the department shall be fined not exceeding five hundred dollars, and the department shall revoke their permit.

17. Administer the statewide public health nursing and homemaker-home health aide programs by approving grants of state funds to the local boards of health and the county boards of supervisors and by providing guidelines for the approval of the grants and allocation of the state funds.

18. Establish, publish, and enforce rules not inconsistent with the law as necessary to obtain from persons licensed or regulated by the department the data required pursuant to section 145.3 by the state health data commission.

(83 Acts, ch 27, § 7) HF 196

NEW subsection 18

135.31 Test for phenylketonuria. Repealed by 83 Acts, ch 23, § 8. (SF 188)

135.81 Report to general assembly. Repealed by 83 Acts, ch 101, § 129. (SF 136)

CHAPTER 135B

LICENSURE AND REGULATION OF HOSPITALS

135B.7 Rules and enforcement. The state department of health with the advice of the hospital licensing board, shall adopt and enforce rules and standards for the different types of hospitals to be licensed under this chapter, to further the purposes of the chapter. Rules or standards shall not be adopted or enforced which would have the effect of denying a license to a hospital or other institution required to be licensed, solely by reason of the school or system of practice employed or permitted to be employed by physicians in the hospital if the school or system of practice is recognized by the laws of this state.

(83 Acts, ch 101, § 16) SF 136

Amended

135B.17 Construction. This chapter is in addition to and not in conflict with chapter 235.

Provisions of this chapter in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

(83 Acts, ch 101, § 17) SF 136

Unnumbered paragraph 1 amended

135B.26 Compensation. The contract between the hospital and doctor in charge of the laboratory or X-ray facilities may contain any provision for compensation of each upon which they mutually agree. The contract may create the relationship of employer and employee between the hospital and the radiologist or pathologist. A percentage arrangement or a relationship of employer and employee between the

hospital and the radiologist or pathologist is not unprofessional conduct on the part of the doctor or in violation of the statutes of this state upon the part of the hospital.

(83 Acts, ch 27, § 8) HF 196

Amended

135B.28 Hospital bill. The hospital bill shall properly include the charges for pathology and radiology services as long as the name of the doctor is stated and it fairly appears that the charge is for medical services. The said hospital bill shall also contain a statement substantially in the following form:

“The pathology and radiology charges are for medical services rendered by or under the direction of the doctor listed above and are collected by the hospital on behalf of the doctor, from which charges an agreed sum will be retained by the hospital in accordance with an existing agreement to which retention you consented at the time of your admission to the hospital.”

Upon the effective date of regulations which may be adopted by the United States department of health and human services prohibiting combined billing by hospitals and hospital- based physicians under Title XVIII of the federal Social Security Act, the charges for all pathology and radiology services in a hospital, may upon the mutual agreement of the hospital, physician and third- party payer, be billed separately, the hospital component of the charges being included in the hospital bill and the doctor component being billed by the doctor.

(83 Acts, ch 27, § 9) HF 196

NEW unnumbered paragraph 3

CHAPTER 135C

HEALTH CARE FACILITIES

135C.14 Rules. The department shall, in accordance with chapter 17A, adopt and enforce rules setting minimum standards for health care facilities. In so doing, the department may adopt by reference, with or without amendment, nationally recognized standards and rules, which shall be specified by title and edition, date of publication, or similar information. The rules and standards required by this section shall be formulated in consultation with the commissioner of human services or his or her designee and with industry, professional and consumer groups affected thereby, and shall be designed to further the accomplishment of the purposes of this chapter and shall relate to:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions, which shall ensure the health, safety and comfort of residents and protection from fire hazards. The rules of the department relating to protection from fire hazards and fire safety shall be promulgated by the state fire marshal, and shall be in keeping with the latest generally recognized safety criteria for the facilities covered of which the applicable criteria recommended and published from time to time by the national fire protection association are prima-facie evidence.

2. Number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care provided to residents.

3. All sanitary conditions within the facility and its surroundings including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents.

4. Diet related to the needs of each resident and based on good nutritional practice and on recommendations which may be made by the physician attending the resident.

5. Equipment essential to the health and welfare of the resident.

6. Requirements that a minimum number of registered or licensed practical nurses and nurses' aides, relative to the number of residents admitted, be employed

by each licensed facility. Staff-to-resident ratios established under this subsection need not be the same for facilities holding different types of licenses, nor for facilities holding the same type of license if there are significant differences in the needs of residents which the respective facilities are serving or intend to serve.

7. Social services and rehabilitative services provided for the residents.

8. Facility policies and procedures regarding the treatment, care, and rights of residents. The rules shall apply the federal resident's bill of rights contained in 42 C.F.R. 442.311, as amended to January 1, 1981, to all health care facilities as defined in this chapter and shall include procedures for implementing and enforcing the federal rules. The department shall also adopt rules relating to the following:

a. The transfer of residents to other rooms within a facility.

b. The involuntary discharge or transfer of residents from a facility including provisions for notice and agency hearings and for the development of a patient discharge or transfer plan and for providing counseling services to a patient being discharged or transferred.

c. The required holding of a bed for a resident under designated circumstances upon payment of a prescribed charge for the bed.

d. The notification of care review committees by the department of all complaints relating to health care facilities and the involvement of the care review committees in resolution of the complaints.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

(83 Acts, ch 101, § 18) SF 136

Subsection 1 amended

135C.16 Inspections.

1. In addition to the inspections required by sections 135C.9 and 135C.38 the department shall make or cause to be made such further unannounced inspections as it may deem necessary to adequately enforce this chapter, including at least one general inspection in each calendar year of every licensed health care facility in the state made without providing advance notice of any kind to the facility being inspected. The inspector shall identify himself or herself to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. Any employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the commissioner, except that if the employee is employed pursuant to chapter 19A the discipline shall not exceed that authorized pursuant to that chapter.

2. The department shall prescribe by rule that any licensee or applicant for license desiring to make specific types of physical or functional alterations or additions to its facility or to construct new facilities shall, before commencing the alteration or additions or new construction, submit plans and specifications to the department for preliminary inspection and approval or recommendations with respect to compliance with the department's rules and standards. When the plans and specifications have been properly approved by the department or other appropriate state agency, the facility or the portion of the facility constructed or altered in accord with the plans and specifications shall not for a period of at least five years from completion of the construction or alteration be considered deficient or ineligible for licensing by reason of failure to meet any rule or standard established subsequent to approval of the plans and specifications. When construction or alteration of a facility or portion of a facility has been completed in accord with plans and specifications submitted as required by this subsection and properly approved by the department or other appropriate state agency, and it is discovered that the facility or portion of a facility is not in compliance with a requirement of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, and the deficiency was apparent from the plans

and specifications submitted but was not noted or objected to by the department or other appropriate state agency, the department or agency responsible for the oversight shall either waive the requirement or reimburse the licensee or applicant for any costs which are necessary to bring the new or reconstructed facility or portion of a facility into compliance with the requirement and which the licensee or applicant would not have incurred if the facility or portion of the facility had been constructed in compliance with the requirements of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted. If within two years from the completion of the construction or alteration of the facility or portion thereof, a department or agency of the state orders that the new or reconstructed facility or portion thereof be brought into compliance with the requirements of this chapter or the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, the state shall have a claim for damages to the extent of any reimbursement paid to the licensee or applicant against any person who designed the facility or portion thereof for negligence in the preparation of the plans and specifications therefor, subject to all defenses based upon the negligence of the state in reviewing and approving those plans and specifications, but not thereafter.

The provisions of this subsection shall not apply where the deficiency presents a clear and present danger to the safety of the residents of the facility.

3. An inspector of the department may enter any licensed health care facility without a warrant, and may examine all records pertaining to the care provided residents of the facility. An inspector of the department of human services shall have the same right with respect to any facility where one or more residents are cared for entirely or partially at public expense and the state fire marshal or a deputy appointed pursuant to section 135C.9, subsection 1, paragraph "b" shall have the same right of entry into any facility and the right to inspect any records pertinent to fire safety practices and conditions within that facility. If any such inspector has probable cause to believe that any institution, place, building, or agency not licensed as a health care facility is in fact a health care facility as defined by this chapter, and upon properly identifying himself he is denied entry thereto for the purpose of making an inspection, he may, with the assistance of the county attorney of the county in which the purported health care facility is located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been any violations of this chapter.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

135C.17 Duties of other departments. It shall be the duty of the department of human services, state fire marshal, and the officers and agents of other state and local governmental units to assist the department in carrying out the provisions of this chapter, insofar as the functions of these respective offices and departments are concerned with the health, welfare, and safety of any resident of any health care facility.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

135C.19 Public disclosure of inspection findings — posting of citations.

1. Following any inspection of a health care facility by the department, the findings of the inspection with respect to compliance by the facility with requirements for licensing under this chapter shall be made available to the public in a readily available form and place not later than twenty-one days after the findings are made available to the applicant or licensee. However, the findings from an inspection shall be sent to the chairperson of the care review committee of the facility at the same time they are sent to the applicant or licensee. When the findings are

made available to the public, they shall include no reference to any cited violation which has been corrected to the department's satisfaction unless the same reference also clearly notes that the violation has been corrected. Other information relating to any health care facility, obtained by the department through reports, investigations, complaints, or as otherwise authorized by this chapter, which is not a part of the department's findings from an inspection of the facility, shall not be made available to the public except in proceedings involving the citation of a facility for a violation, in the manner provided by section 135C.40, or the denial, suspension or revocation of a license under this chapter.

2. Each citation for a class I or class II violation which is issued to a health care facility and which has become final, or a copy or copies thereof, shall be prominently posted as prescribed in rules to be adopted by the department, until the violation is corrected to the department's satisfaction. The citation or copy shall be posted in a place or places in plain view of the residents of the facility cited, persons visiting the residents, and persons inquiring about placement in the facility.

3. A copy of each citation required to be posted by this subsection shall be sent by the department to the department of human services.

If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of health, the department of human services must maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of health, but shall forward or refer such inquiries to the department of health.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 and unnumbered paragraph 1 amended (last paragraph)

135C.22 Applicable to governmental units. The provisions of this chapter shall be applicable to institutions operated by or under the control of the department of human services, the state board of regents, or any other governmental unit.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

135C.23 Express requirements for admission or residence. No individual shall be admitted to or permitted to remain in a health care facility as a resident, except in accordance with the requirements of this section.

1. Each resident shall be covered by a contract executed at the time of admission or prior thereto by the resident, or his legal representative, and the health care facility, except as otherwise provided by subsection 5 with respect to residents admitted at public expense to a county care facility operated under chapter 253. Each party to the contract shall be entitled to a duplicate original thereof, and the health care facility shall keep on file all contracts which it has with residents and shall not destroy or otherwise dispose of any such contract for at least one year after its expiration. Each such contract shall expressly set forth:

- a. The terms of the contract.
- b. The services and accommodations to be provided by the health care facility and the rates or charges therefor.
- c. Specific descriptions of any duties and obligations of the parties in addition to those required by operation of law.
- d. Any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter, nor contain any disclaimer of responsibility for injury to the resident, or to relatives or other persons visiting the resident, which occurs on the premises of the facility or, with respect to injury to the resident, which occurs while the resident is under the supervision of any employee of the facility whether on or off the premises of the facility.

2. A health care facility shall not knowingly admit or retain a resident:
 - a. Who is dangerous to the resident or other residents.
 - b. Who is in an acute stage of alcoholism, drug addiction, mental illness, or an active state of communicable disease.
 - c. Whose condition or conduct is such that the resident would be unduly disturbing to other residents.
 - d. Who is in need of medical procedures, as determined by a physician, or services which cannot be or are not being carried out in the facility.

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility or skilled nursing facility when the intermediate care facility or skilled nursing facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility or skilled nursing facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility or skilled nursing facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and mental retardation commission, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities and skilled nursing facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

3. Except in emergencies, a resident who is not essentially capable of managing his own affairs shall not be transferred out of a health care facility or discharged for any reason without prior notification to the next of kin, legal representative, or agency acting on the resident's behalf. When such next of kin, legal representative, or agency cannot be reached or refuses to co-operate, proper arrangements shall be made by the facility for the welfare of the resident before his transfer or discharge.

4. No owner, administrator, employee, or representative of a health care facility shall pay any commission, bonus, or gratuity in any form whatsoever, directly or indirectly, to any person for residents referred to such facility, nor accept any commission, bonus, or gratuity in any form whatsoever, directly or indirectly, for professional or other services or supplies purchased by the facility or by any resident, or by any third party on behalf of any resident, of the facility.

5. Each county which maintains a county care facility under chapter 253 shall develop a statement in lieu of, and setting forth substantially the same items as, the contracts required of other health care facilities by subsection 1. The statement must be approved by the county board of supervisors and by the department. When so approved, the statement shall be considered in force with respect to each resident of the county care facility.

(83 Acts, ch 76, § 1) SF 463

Subsection 2 amended and NEW unnumbered paragraph 2 added to subsection 2.

135C.25 Care review committee appointments — duties.

1. Each health care facility shall have a care review committee whose members shall be appointed by the executive director of the Iowa commission on the aging or the director's designee. A person shall not be appointed a member of a care review committee for a health care facility unless the person is a resident of the service area where the facility is located. The care review committee for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled shall only be appointed after consultation with the director of the division of mental health and mental retardation on the proposed appointments. Recommendations to the executive director or the director's designee for membership on care review committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the care review committee and shall not be present at committee meetings except upon request of the committee.

2. Each care review committee shall periodically review the needs of each individual resident of the facility and shall perform the functions pursuant to sections 135C.38 and 249B.35.

(83 Acts, ch 73, § 6) SF 431

Struck and rewritten

CHAPTER 135D

MOBILE HOMES AND PARKS

135D.15 Seasonal operation. If an applicant for a mobile home park license desires to operate the mobile home park only during the months from May 1 to October 1, the applicant shall pay only one-half of the annual license fee. If in the opinion of the state department of health the sanitary and facility requirements in this chapter are too rigid for the mobile home park, it may in writing or by regulation modify the requirements as circumstances permit and require.

(83 Acts, ch 101, § 19) SF 136
Amended

135D.22 Semiannual tax. The owner of each mobile home shall pay to the county treasurer a semiannual tax as herein provided. However, when the owner is any educational institution and the mobile home is used solely for student housing or when the owner is the state of Iowa or a subdivision thereof, the owner shall be exempt from the tax provided herein. The semiannual tax shall be computed as follows:

1. Multiply the number of square feet of floor space each mobile home contains when parked and in use by ten cents. In computing floor space, the exterior measurements of the mobile home shall be used as shown on the certificate of registration and title, but not including any area occupied by a hitching device.

2. If the owner of the mobile home was totally disabled, as defined in section 425.17, subsection 6 on or before December 31 of the base year, is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year or has attained the age of sixty-five years on or before December 31 of the base year and has an income when included with that of a spouse which is less than five thousand dollars per year, no semiannual tax shall be imposed on the mobile home. If the income is five thousand dollars or more but less than twelve thousand dollars, the semiannual tax shall be computed as follows:

| If the Household Income is: | Semiannual Tax Per Square Foot |
|--------------------------------|-----------------------------------|
| \$5,000 - 5,999.99 | 3.0 cents |
| 6,000 - 6,999.99 | 5.0 |
| 7,000 - 7,999.99 | 6.0 |
| 8,000 - 8,999.99 | 7.0 |
| 9,000 - 11,999.99 | 7.5 |

For purposes of this subsection "income" means income as defined in section 425.17, subsection 1, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The mobile home reduced rate of tax shall only be allowed on the mobile home in which the claimant is residing at the time in which the claim for a reduced rate of tax is filed.

3. The amount thus computed shall be the semiannual tax for all mobile homes for the first five years after the year of manufacture.

4. For the sixth through ninth years after the year of manufacture the semiannual tax is ninety percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

5. For all mobile homes ten or more years after the year of manufacture the semiannual tax is eighty percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

6. The semiannual tax shall be figured to the nearest whole dollar.

7. On or before April 1 of each year, each mobile home owner eligible for a reduced tax rate shall file a claim for this tax rate with the county treasurer. The forms for filing the claim shall be provided by the department of revenue. The forms

shall require information as determined by the director of revenue. The reduced tax rate is applicable to both semiannual tax payments due in the calendar year in which the claim is filed. If an eligible mobile home owner fails to file a claim by April 1, the reduced tax rate shall not be granted for the semiannual tax payment due by April 1, of that year. Claims filed with the county treasurer after April 1, but before October 1, are applicable to the semiannual tax payment due by October 1, only.

On or before April 15 of each year, the county treasurer shall prepare a statement listing for each taxing district in the county the total amount of taxes which will not be collected for the calendar year by reason of the reduced tax rate granted under subsection 2. The county treasurer shall certify and forward the statement to the director of revenue not later than April 15 of each year.

The director of revenue shall certify to the state comptroller the amount due to each county, which amount shall be the dollar amount which will not be collected due to the granting of the reduced tax rate under subsection 2.

The amounts due each county shall be paid by the state comptroller on December 15 of each year, drawn upon warrants payable to the respective county treasurers. The county treasurer in each county shall apportion the payment in accordance with section 135D.25.

There is appropriated annually from the general fund of the state to the department of revenue an amount sufficient to carry out this subsection.

(83 Acts, ch 189, § 1, 2, 4, 6) HF 241

Effective June 21, 1983

Amendments to subsection 2 apply to claims filed on or after January 1, 1984

Subsections 2, 4 and 5 amended

(83 Acts, ch 172, § 2) SF 540

Effective June 4, 1983

Unnumbered paragraph 4 amended

135D.24 Collection of tax.

1. The semiannual tax is due and payable to the county treasurer semiannually on January 1 and July 1 in each year; and is delinquent April 1 and October 1 in each year, at which time a penalty of one percent shall be added each month until paid except that the limitation in section 445.20 applies. Both semiannual payments of taxes may be paid at one time if so desired. A mobile home put to use at any time after January 1 or July 1 is subject to the taxes prorated for the remaining unexpired months of the tax period. Taxes prorated on or after April 1 are due July 1 and must be paid at the same time and in the same manner as the September payment of property taxes. Taxes prorated on or after October 1 are due January 1 and must be paid at the same time and in the same manner as the March payment of property taxes. The semiannual tax periods for mobile home tax are January 1 through June 30 and July 1 through December 31. On May 1 of each year, the county treasurer shall send, by mail, a statement to each delinquent mobile home taxpayer to notify the taxpayer that the mobile home will be offered at the next annual tax sale for nonpayment of one or more semiannual tax payments.

2. Mobile home owners upon issuance of a certificate of title or upon transporting to a new site shall file the address, township, and school district, of the location where the mobile home is parked with the county treasurer's office. Failure to comply is punishable as set out in section 135D.18.

3. Each mobile home park licensee shall keep an accurate and complete record of the number of units of mobile homes harbored in the park, listing the owner's name, year and make of the unit, and report this information on or before the tenth day of March and September with supplemental monthly reports listing arrivals and departures of mobile homes for which a tax clearance statement was not issued to the county treasurer. The records of the licensee shall be open to inspection by a duly authorized representative of any law enforcement agency. Any property owner, manager or tenant shall report to the county treasurer mobile homes parked upon any property owned, managed, or rented by that person.

4. The tax is a lien on the vehicle senior to any other lien upon it. The mobile home bearing a current registration issued by any other state and remaining within this state for an accumulated period not to exceed ninety days in any twelve-month period is not subject to Iowa tax. However, when one or more persons occupying a mobile home bearing a foreign registration are employed in this state, there is no exemption from the Iowa tax. This tax is in lieu of all other taxes general or local on a mobile home.

5. A modular home as defined by this chapter is not subject to or assessed the semiannual tax pursuant to this section, but shall be assessed and taxed as real estate pursuant to chapter 427.

6. Before a mobile home may be moved from its present site, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. However, a tax clearance statement shall not be required for a mobile home in a manufacturer's or dealer's stock which is not used as a place for human habitation. If a dealer acquires a mobile home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer and shall be made out in quadruplicate. Two copies are to be provided to the company or person transporting the mobile home with one copy to be carried in the vehicle transporting the mobile home. One copy is to be forwarded to the county treasurer of the county in which the mobile home is to be relocated and one copy is to be retained by the county treasurer issuing the tax clearance statement.

(83 Acts, ch 5, § 1, 2, 4, 5) HF 68

Amendments to subsection 1 effective March 17, 1983, retroactive to January 1, 1983 for mobile home taxes levied, due, and payable in the calendar year beginning on that date.

Amendment to subsection 6 effective March 17, 1983

Subsections 1 and 6 amended

Paragraphs numbered as subsections

135D.26 Conversion to real property. No mobile home shall be assessed for property tax nor be eligible for homestead tax credit or military service tax credit unless:

1. The mobile home owner intends to convert his mobile home to real estate and does so by:

- a. Attaching his mobile home to a permanent foundation.
- b. Destruction or modification of the vehicular frame rendering it impossible to reconvert the real property thus created to a mobile home.
- c. If a security interest is noted on the certificate of title, tendering to the secured party a mortgage on the real estate upon which the mobile home is to be located in the unpaid amount of the secured debt, and with the same priority as or a higher priority than the secured party's security interest, or obtaining written consent of the secured party to the conversion.

2. After complying with subsection 1, the owner shall notify the assessor who shall inspect the new premises for compliance. If a security interest is noted on the certificate of title, the assessor shall require an affidavit, as defined in section 622.85, from the mobile home owner, declaring that the owner has complied with subsection 1, paragraph "c", and shall send notice of the proposed conversion to the secured party by regular mail not less than ten days before the conversion becomes effective. When the mobile home is properly converted, the assessor shall then collect the mobile home vehicle title and enter the property upon the tax rolls.

(83 Acts, ch 64, § 1) HF 119

Subsection 2 amended

CHAPTER 135E

NURSING HOME ADMINISTRATORS

135E.1 Definitions. For the purposes of this division, and as used herein:

1. *"Board"* means the Iowa state board of examiners for nursing home administrators hereinafter created.

2. *"Nursing home administrator"* means a person who administers, manages, supervises, or is in general administrative charge of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more individuals. A member of a board of directors, unless also serving in a supervisory or managerial capacity, shall not be considered a nursing home administrator.

3. *"Nursing home"* means any institution or facility, or part thereof, licensed as an intermediate care facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded, defined as such for licensing purposes under state law or pursuant to the rules and regulations for nursing homes established by the state department of public health, whether proprietary or nonprofit, including but not limited to, nursing homes owned or administered by the federal or state government or an agency or political subdivisions thereof.

(83 Acts, ch 206, § 8) HF 613
Subsection 3 amended

CHAPTER 136A

BIRTH DEFECTS INSTITUTE

136A.1 Purpose. In order to provide for the protection and promotion of the health of the inhabitants of the state, the state department of health shall develop and administer the state's policy with respect to the conduct of scientific investigations and research concerning the causes, prevention, treatment and cure of birth defects. The department shall initiate, conduct, and supervise screening programs to discover genetic birth defects and related diseases and to prevent or treat the defects or diseases.

(83 Acts, ch 23, § 1) SF 188
Amended

136A.2 Establishment of birth defects institute. There is established within the state department of health a birth defects institute to initiate and conduct investigations of the causes, mortality, methods of treatment, prevention and cure of birth defects and related diseases and to develop and administer genetic and metabolic screening programs and other related activities where the programs will aid in the prevention or treatment of a particular genetic or metabolic defect or disease. The birth defects institute shall assume responsibility for development and implementation of screening and educational programs for sickle cell anemia and other genetic blood disorders.

(83 Acts, ch 23, § 2) SF 188
Amended

136A.3 Activities of the institute. The birth defects institute may:

1. Conduct scientific investigations and surveys of the causes, mortality, methods of treatment, prevention and cure of birth defects.

2. Publish the results of the investigations and surveys for the benefit of the public health and collate the publications for distribution to scientific organizations and qualified scientists and physicians.

3. Develop and administer genetic and metabolic screening programs to detect and prevent or treat birth defects, the programs to be conducted throughout the state.

4. Develop specifications for and designate a central laboratory in which tests required pursuant to the screening programs required in subsection 3 will be performed, taking into account the test costs to the financially responsible private parties and to the state.

5. Implement programs of professional education and training of medical students, physicians, nurses, scientists and technicians in the causes, methods of treatment, prevention and cure of birth defects.

6. Implement public educational programs to inform persons of the importance of genetic screening and of the various opportunities available.

7. Conduct and support clinical counseling services in medical facilities.

(83 Acts, ch 23, § 4) SF 188

Amended and NEW subsections 3, 4 and 6 added

136A.4 Genetic and metabolic screening defined. Genetic and metabolic screening means the search through testing for persons with genetic and metabolic diseases so that early treatment or counseling can lead to the amelioration or avoidance of the adverse consequences of the diseases.

(83 Acts, ch 23, § 3) SF 188

NEW section

136A.5 Rules, regulations, and standards. The birth defects institute, with assistance provided by the state department of health, shall adopt rules pursuant to chapter 17A to implement this chapter.

(83 Acts, ch 23, § 5) SF 188

NEW section

136A.6 Central registry — confidentiality. The birth defects institute may maintain a central registry to collect and store report data to facilitate the compiling of statistical information on the causes, treatment, prevention, and cure of genetic disorders and birth defects. Identifying information shall remain confidential pursuant to section 68A.7, subsection 2.

(83 Acts, ch 23, § 6) SF 188

NEW section

136A.7 Cooperation of other agencies. All state, district, county, and city health or welfare agencies shall cooperate and participate in the implementation of this chapter.

(83 Acts, ch 23, § 7) SF 188

NEW section

CHAPTER 137

LOCAL BOARDS OF HEALTH

137.6 Powers of local boards. Local boards shall have the following powers:

1. Enforce state health laws and the rules and lawful orders of the state department.

2. Make and enforce such reasonable rules and regulations not inconsistent with law or with the rules of the state board as may be necessary for the protection and improvement of the public health.

a. Rules of a county board shall become effective upon approval by the county board of supervisors and publication in a newspaper having general circulation in the county.

b. Rules of a city board shall become effective upon approval by the city council and publication in a newspaper having general circulation in the city.

c. Rules of a district board shall become effective upon approval by the district board and publication in a newspaper having general circulation in the district.

d. However, before approving any rule or regulation the local board of health shall hold a public hearing on the proposed rule. Any citizen may appear and be heard at the public hearing. A notice of the public hearing, stating the time and place and the general nature of the proposed rule or regulation, shall be published at least ten days before the hearing in a newspaper of general circulation in the area served by the board.

The board shall also make a reasonable effort to give notice of the hearing to the communications media located within said area.

3. May by agreement with the council of any city within its jurisdiction enforce appropriate ordinances of said city.

4. Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of the Iowa merit employment commission or any civil service provision adopted under chapter 400.

5. Provide reports of its operations and activities to the state department as may be required by the commissioner.

(83 Acts, ch 101, § 20) SF 136

Subsection 4 amended

137.12 Appointment. On receipt of notice of approval as a district health department, a district board shall be appointed as specified in the plan. Board members shall serve without compensation, but shall be reimbursed for necessary expenses in accordance with rules established by the state board.

(83 Acts, ch 123, § 63, 209) HF 628

Amended

137.17 Local fund for district. On establishment of a district health department, the district board shall designate the treasurer of a city or county within its jurisdiction to establish a health fund for the district.

(83 Acts, ch 123, § 64, 209) SF 628

Amended

137.18 Deposit of moneys in fund. All moneys received by a district for local health purposes from federal appropriations, from local taxation, from licenses, from fees for personal services, or from gifts, grants, bequests, or other sources shall be deposited in the health fund. Expenditures shall be made from the fund on order of the district board for the purpose of carrying out its duties.

(83 Acts, ch 123, § 65, 209) HF 628

Amended

CHAPTER 139

CONTAGIOUS AND INFECTIOUS DISEASES

139.9 Immunization of children.

1. Every parent or legal guardian shall assure that his or her minor children residing in the state have been adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella according to recommendations provided by the state department of health subject to the provisions of subsections 3 and 4.

2. No person shall be enrolled in any licensed child care center, elementary or secondary school in Iowa without evidence of adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella, except as provided in subsections 3 and 4.

3. Subject to the provision of subsection 4 the state board of health may modify or delete any of the immunizations in subsection 1.

4. Immunization is not required for a person's enrollment in any elementary or secondary school or licensed child care center if that person submits to the admitting official either of the following:

a. A statement signed by a doctor, who is licensed by the state board of medical examiners, in which it is stated that, in the doctor's opinion, the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family or household; or

b. An affidavit signed by the applicant or, if a minor, by a legally authorized representative, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the applicant is an adherent or member; however, this exemption does not apply in times of emergency or epidemic as determined by the state board of health and as declared by the commissioner of health.

5. A person may be provisionally enrolled in an elementary or secondary school or licensed child care center if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The state department of health shall promulgate rules relating to the provisional admission of persons to an elementary or secondary school or licensed child care center.

6. The local board of health shall furnish the state department of health sixty days after the first official day of school evidence that each person enrolled in any elementary or secondary school has been immunized as required in this section subject to subsection 4. The state department of health shall promulgate rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

7. The local boards of health shall provide the required immunizations to children in areas where no local provision exists to provide these services.

8. The state department of health in consultation with the superintendent of public instruction shall promulgate rules for the implementation of this section and shall provide those rules to local school boards and local boards of health.

(83 Acts, ch 81, § 1) SF 281

Subsection 6 amended

139.29 Approval and payment of claims. The board of supervisors is not bound by the action of the local board in approving the bills, but shall allow them for a reasonable amount and within a reasonable time.

(83 Acts, ch 123, § 66, 209) HF 628

Amended

CHAPTER 139A

EXPOSURE TO CHEMICALS — VETERANS

NEW chapter

139A.1 Definitions. As used in this chapter unless the context otherwise provides:

1. "*Agent orange*" means the herbicide composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.

2. "*Veteran*" means a person who was a resident of this state at the time of the person's induction into the armed forces of the United States or who is a resident of this state July 1, 1983 and served in Vietnam, Cambodia, or Laos during the Vietnam Conflict.

3. "*Chemicals*" means chemical defoliants, herbicides, or other causative agents, including but not limited to agent orange.

4. "*Department*" means the state department of health.

(83 Acts, ch 141, § 1) HF 617

NEW section

139A.2 Chemical report to department. A licensed physician pursuant to section 135.1, subsection 5, who treats a veteran the physician believes may have been exposed to chemicals while serving in the armed forces of the United States shall submit a report indicating that information to the department at the request of the veteran pursuant to section 139A.3.

(83 Acts, ch 141, § 2) HF 617

NEW section

139A.3 Duties of the department. The department shall:

1. Provide the forms for the reports required in section 139A.2. The report shall require the doctor to provide all of the following:

- a. Symptoms of the veteran which may be related to exposure to chemicals.
- b. Diagnosis of the veteran.
- c. Methods of treatment prescribed.

2. Annually compile and evaluate the information submitted in the reports pursuant to subsection 1, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall submit the report to the governor, general assembly, United States veterans' administration, and the state department of veterans affairs. The report shall include current research data on the effects of exposure to chemicals, statistical information received from individual physicians' reports, and statistical information from the epidemiological investigations pursuant to subsection 3.

3. Conduct epidemiological investigations of veterans who have cancer or other medical problems or who have children born with birth defects associated with exposure to chemicals, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall obtain consent from a veteran before conducting the investigations.

The department shall cooperate with local and state agencies during the course of an investigation.

(83 Acts, ch 141, § 3) HF 617

NEW section

139A.4 Confidentiality — liability provisions. The department shall not identify a veteran consenting to the epidemiological investigations pursuant to section 139A.3, subsection 3, unless the veteran consents to the release of identity. The statistical information compiled by the department pursuant to section 139A.3 is a public record.

A licensed physician complying with this chapter is not civilly or criminally liable for release of the required information.

(83 Acts, ch 141, § 4) HF 617

NEW section

139A.5 Attorney general powers. The attorney general may represent veterans who may have been injured because of contact with chemicals, in an action for release of information relating to exposure to such causative agents during military service and release of the veterans' medical records.

(83 Acts, ch 141, § 5) HF 617

NEW section

139A.6 Medical cooperative program. The department and appropriate medical facilities at the state university of Iowa under the control of the state board of regents shall institute a cooperative program to:

1. Refer veterans to appropriate state and federal agencies to file claims to remedy medical and financial problems caused by the veterans' exposure to chemicals.

2. Provide veterans with fat tissue biopsies, genetic counseling, and genetic screening upon request of the licensed physician pursuant to section 139A.2, to

determine if the veterans have suffered physical damage as a result of substantial exposure to chemicals.

(83 Acts, ch 141, § 6) HF 617

NEW section

139A.7 Federal program. If the commissioner of public health or the general assembly determines that an agency of the federal government or the state of Iowa is providing the referral and genetic services pursuant to section 139A.6, the commissioner or the general assembly by specific action may discontinue all or part of the services or requirements provided in this chapter.

(83 Acts, ch 141, § 7) HF 617

NEW section

139A.8 Rules. The department shall adopt rules pursuant to chapter 17A to implement this chapter.

(83 Acts, ch 141, § 8) HF 617

NEW section

139A.9 Appropriations. This chapter shall be implemented by the department each fiscal year that appropriations are made to the department for implementation of this chapter.

(83 Acts, ch 141, § 9) HF 617

NEW section

CHAPTER 141

TESTING FOR SICKLE CELL ANEMIA

Repealed by 83 Acts, ch 23, § 8 (SF 188)

CHAPTER 144

VITAL STATISTICS

144.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Board*" means the state board of health.
2. "*Department*" means the state department of health.
3. "*Division*" means a division, within the department, for records and statistics.
4. "*State registrar*" means the state registrar of vital statistics.
5. "*Institution*" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more unrelated individuals, or to which persons are committed by law.
6. "*Vital statistics*" means records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments, and data related thereto.
7. "*System of vital statistics*" includes the registration, collection, preservation, amendment, and certification of vital statistics records, and activities and records related thereto including the data processing, analysis, and publication of statistical data derived from such records.
8. "*Filing*" means the presentation of a certificate, report, or other record, provided for in this chapter, of a birth, death, fetal death, adoption, marriage, dissolution, or annulment for registration by the division.
9. "*Registration*" means the acceptance by the division and the incorporation in its official records of certificates, reports, or other records, provided for in this chapter, of births, deaths, fetal deaths, adoptions, marriages, divorces, or annulments.

10. *“Live birth”* means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

11. *“Fetal death”* means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy. Death is indicated by the fact that after expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

12. *“Dead body”* means a lifeless human body or parts or bones of a body, if, from the state of the body, parts, or bones, it may reasonably be concluded that death recently occurred.

13. *“Final disposition”* means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

(83 Acts, ch 101, § 21) SF 136
Subsection 8 amended

144.2 Division of records and statistics. There is established in the department a division for records and statistics which shall install, maintain, and operate the system of vital statistics throughout the state. No system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments, shall be maintained in the state or any of its political subdivisions other than the one provided for in this chapter. Suitable quarters shall be provided for the division by the executive council at the seat of government. The quarters shall be properly equipped for the permanent and safe preservation of all official records made and returned under this chapter.

(83 Acts, ch 101, § 22) SF 136
Amended

144.11 Fees paid by county auditor. The state registrar shall certify to the auditor of the county, monthly, quarterly, semiannually or annually the number of birth, death, and fetal death certificates registered by each local registrar with the names of the local registrars and the amount due. Upon such certification the fees due the local registrars shall be paid by the auditor of the county.

(83 Acts, ch 123, § 67, 209) HF 628
Amended

144.36 Marriage certificate filed — prohibited information.

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The clerk of the district court shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The clerk of the district court in each county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state and shall be prescribed by the state department. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept in lieu of marriage record books.

2. Every person who performs a marriage shall certify the fact of marriage and return the certificate to the clerk of the district court within fifteen days after the ceremony. The certificate shall be signed by the witnesses to the ceremony and the person performing the ceremony.

3. The certificate of marriage shall not contain information concerning the race of the married persons, previous marriages of the married persons, or the educational level of the married persons.

4. The clerk of the district court shall record and forward to the state registrar

on or before the tenth day of each calendar month the original certificates of marriages filed with him during the preceding calendar month.

(83 Acts, ch 186, § 10048, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
Subsection 1 amended

144.37 Dissolution and annulment records. For each dissolution or annulment of marriage granted by any court in this state, a record shall be prepared by the clerk of court or by the petitioner or the petitioner's legal representative if directed by the clerk and filed by the clerk of court with the state registrar. The information necessary to prepare the report shall be furnished with the petition, to the clerk of court by the petitioner or the petitioner's legal representative, on forms supplied by the state registrar.

The clerk of the district court in each county shall keep a record book for dissolutions. The form of dissolution record books shall be uniform throughout the state and shall be prescribed by the state department. A properly indexed record of dissolutions upon microfilm, electronic computer, or data processing equipment may be kept in lieu of dissolution record books.

On or before the tenth day of each calendar month, the clerk of court shall forward to the state registrar the record of each dissolution and annulment granted during the preceding calendar month and related reports required by regulations issued under this chapter.

(83 Acts, ch 101, § 23) SF 136

Unnumbered paragraphs 2 and 3 amended

(83 Acts, ch 186, § 10049, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
See Code editor's note at the end of this Supplement
Unnumbered paragraph 2 amended

144.46 Fee for copy of record. The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the clerk of the district court for each certified copy or short form certification of certificates or records, or for a search of the files or records when no copy is made, or when no record is found on file. Fees collected by the state registrar under this section shall be deposited in the general fund of the state. Fees collected by the clerk of the district court shall be deposited in the court revenue distribution account established under section 602.8108. A fee shall not be collected from a political subdivision or agency of this state.

(83 Acts, ch 186, § 10050, 10201) SF 495

Amended

(83 Acts, ch 123, § 68, 209) HF 628

See Code editor's note at the end of this Supplement

Amended

144.51 Information by others furnished on demand. Any person having knowledge of the facts shall furnish information the person possesses regarding any birth, death, fetal death, adoption, marriage, dissolution, or annulment, upon demand of the state registrar or the state registrar's representative.

(83 Acts, ch 101, § 24) SF 136

Amended

CHAPTER 145

HEALTH DATA COMMISSION

NEW chapter

145.1 Intent and purpose. As a result of rising health care costs and the concern expressed by health care providers, health care users, third-party payers, and the general public, there is an urgent need to abate these rising costs so as to place the cost of health care within reach of all Iowans without affecting the quality. It is the intent and purpose of this chapter to maintain an acceptable quality of health care services in Iowa and yet at the same time improve the cost efficiency and effectiveness of health care services. To foster the cooperation of the separate industry forces, there is a need to compile and disseminate accurate and current data, including but not limited to price and utilization data, to meet the needs of the people of Iowa and improve the appropriate usage of health care services. It is the intent of the general assembly to require the information necessary for a review and comparison of cost, utilization, and quality of health services. The information is to be compiled by a statewide clearinghouse and made available to interested persons to improve the decision-making processes regarding the purchase price and use of appropriate health care services. Patient confidentiality shall be protected.

(83 Acts, ch 27, § 1) HF 196

NEW section

145.2 Health data commission established — purpose. A state health data commission is established to act as a statewide health data clearinghouse for the acquisition, compilation, correlation, and dissemination of data from health care providers, the state Medicaid program, third-party payers, and other appropriate sources in furtherance of the purpose and intent of the legislature as expressed in section 145.1.

The commission consists of the commissioners of health, insurance, and human services, one state senator and one state representative who shall not be of the same party, shall be nonvoting members, and shall be appointed each year by the president of the senate and speaker of the house, respectively, and the chairperson of the board of directors of the corporation or the head of the association or other entity providing staff for the commission as provided by section 145.3 who shall be a nonvoting member. The commissioner members shall annually select the chairperson of the commission from among the three voting commissioner members. A majority of the six members including at least two voting members constitute a quorum.

The commission shall meet at least once during each calendar quarter. Meeting dates shall be set by members of the commission or by call of the chairperson upon five days notice to the members. Action of the commission shall not be taken except upon the affirmative vote of a majority of the voting members of the commission. The three voting commissioner members of the commission shall not receive a salary or per diem for being on the commission but shall receive reimbursement for necessary travel and expenses while engaged in commission business. Funds for reimbursement shall come from the moneys appropriated to the department of which the member is the head. The two legislative members of the commission are entitled to per diem and necessary travel and actual expenses as provided in section 2.10, subsection 6. The commission staff and chairperson of the corporation, association, or entity under agreement with the commission pursuant to section 145.3, subsection 1 shall not receive any salary, wages, or per diem for serving the commission and shall not receive reimbursement for commission travel and related expenses or for other commission expenses.

(83 Acts, ch 27, § 2) HF 196

NEW section

(83 Acts, ch 96, § 160) SF 464

Unnumbered paragraph 2 amended

145.3 Powers and duties.

1. The health data commission shall enter into an agreement with the health policy corporation of Iowa or any other corporation, association, or entity it deems appropriate to provide staff for the commission, to provide staff for the compilation, correlation, and development of the data collected by the commission, to conduct or contract for studies on health-related questions which will further the purpose and intent expressed in section 145.1. The agreement may provide for the corporation, association, or entity to prepare and distribute or make available data to health care providers, health care subscribers, third-party payers, and the general public.

2. a. The commission may require that the state departments of health, insurance, and human services obtain for and make available to the commission data needed to carry out its purpose including but not limited to the data specified in this section. This data may be acquired from health care providers, third-party payers, the state Medicaid program, and other appropriate sources.

b. The data collected by and furnished to the commission pursuant to this section shall not be public records under chapter 68A. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 68A, which are not subject to section 68A.7, subsection 2, to the extent provided in section 145.4. The confidentiality of patients is to be protected and the laws of this state in regard to patient confidentiality apply, except to the extent provided in section 145.4.

3. The commission shall require that:

a. The commissioner of insurance and the commissioner of health encourage and assist third-party payers and hospitals to voluntarily implement the use of a uniform hospital billing form, and require that all third-party payers and all hospitals use, by July 1, 1984, the uniform hospital billing form designated or established by the commission. Uniform definitions for the billing form shall be established by the commission.

b. The commissioner of insurance require that all third-party payers, including but not limited to licensed insurers, medical and hospital service corporations, health maintenance organizations, and self-funded employee health plans, provide hospital inpatient and outpatient claims data and corresponding physician claims data to the commission pursuant to section 505.8. This data shall include the patient's age, sex, zip code, third-party coverage, date of admission, procedure and discharge date, principal and other diagnoses, principal and other procedures, total charges and components of those charges, attending physician identification number and hospital identification number. Prior to July 1, 1984, the commissioner of insurance may limit the data collection to major third-party payers and a sample of those third-party payers with low market penetration; to more frequent diagnoses and procedures; and to hospital inpatient claims.

c. The corporation, association, or other entity providing research for the commission shall compile and disseminate comparative information on average charges, total and ancillary charge components, and length of stay on diagnosis-specific and procedure-specific cases on a hospital basis from the data defined in paragraph "b". The data as collected by the commission shall not be public records under chapter 68A. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 68A, which are not subject to section 68A.7, subsection 2, to the extent provided in section 145.4. Prior to the release or dissemination of the compilations, the commission or the corporation, association, or other entity under agreement with the commission pursuant to section 145.3, subsection 1, shall permit providers an opportunity to verify the accuracy of any information pertaining to the provider. The providers may submit to the commission any corrections of errors in the compilations of the data with any supporting evidence and comments the provider may submit. The commission shall correct data found to be in error.

d. If the data required by the commission or the members of the commission is available on computer or electronic tape, that a copy of this tape shall be provided when requested.

e. The commissioner of health and the commissioner of insurance establish a system which creates the use of a common identification number between the uniform hospital billing form and the hospital discharge abstract.

f. The commissioner of health establish a system of uniform physician identification numbers for use on the hospital discharge abstract forms.

g. The commissioner of human services make available to the commission data and information on the Medicaid program similar to that required of other third-party payers.

4. The commission may require that:

a. The commissioner of health require that the uniform discharge abstract form designated or established by the commission be used by all hospitals by July 1, 1984.

b. The commissioner of insurance require corporations regulated by the commissioner who provide health care insurance or service plans to provide health care policyholder or subscriber data by geographic area or other demographics.

c. The commissioner of health require hospitals to submit annually to the commissioner and to post notification in a public area that there is available for public examination in each facility the established charges for services, where applicable including but not limited to, routine daily room service, special care daily room service, delivery room service, operating room service, emergency room service and anesthesiology services, and as enumerated by the commission, for each of the twenty-five most common laboratory services, radiology services, and pharmacy prescriptions. In addition to the posting of the notification, the hospital shall post in each facility next to the notification, the established charges for routine daily room service, special care daily room service, delivery room service, operating room service, and emergency room service.

d. Additional or alternative information related to the intent and purpose of this chapter as outlined in section 145.1 be submitted to the commission.

(83 Acts, ch 27, § 3) HF 196

NEW section

(83 Acts, ch 96, § 160) SF 464

Subsection 2, paragraph a, and subsection 3, paragraph g amended

145.4 Confidential information and records. Notwithstanding section 68A.7, subsection 2, section 135B.12, section 217.30, or any other statute, it is lawful to provide the information requested pursuant to section 145.3 as follows:

1. From hospitals, third-party payers, and other persons to the commissioners or departments of health, insurance, or human services.

2. From the commissioners of health, insurance, and human services to the health data commission.

3. From the health data commission to the corporation, association, or other entity providing research for the commission.

4. From the health data commission or its designee to interested persons.

Information provided pursuant to section 145.3 shall not identify a patient by name, address, or patient identification number unless authorized by the patient. Violation of this paragraph is a serious misdemeanor.

The commission shall determine the form in which information will be made available and to whom, when, and under what circumstances the information shall be made available.

A person shall not be civilly liable as a result of the person's acts, omissions, or decisions as a member of the commission or as an employee or agent in connection with the person's duties for the commission.

(83 Acts, ch 27, § 4) HF 196

NEW section

(83 Acts, ch 96, § 160) SF 464

Subsections 1 and 2 amended

145.5 Release of information. Notwithstanding chapter 68A, the data furnished to the commission pursuant to section 145.3 shall not constitute a public record. A cause of action in the nature of defamation, invasion of privacy, or negligence shall not arise against a person for disclosing information in accordance with section 145.3. However, this section shall not provide immunity for disclosing or furnishing false information with malice or willful intent to injure a person.

(83 Acts, ch 27, § 5) HF 196
NEW section

145.6 Reports and termination of commission. The commission shall submit a report on the actions taken by the commission to the legislature not later than January 15, 1984 and January 15, 1985. The commission shall be terminated July 1, 1985. If the legislature does not extend the date for termination, a final report shall be submitted to the legislature by July 1, 1985.

(83 Acts, ch 27, § 6) HF 196
NEW section

CHAPTER 145A

AREA HOSPITALS

145A.20 Revenue bonds. In addition to any other provisions of this chapter and for the purpose of acquiring, constructing, equipping, enlarging or improving a hospital building or any part thereof, merged areas may issue revenue bonds as provided in chapter 331, division IV, part 4.

(83 Acts, ch 101, § 25) SF 136
Amended

CHAPTER 147

GENERAL PROVISIONS REGULATING PRACTICE PROFESSIONS

147.21 Examination information. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

A member of the board shall not disclose information relating to the following:

1. Criminal history or prior misconduct of the applicant.
2. Information relating to the contents of the examination.
3. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

(83 Acts, ch 101, § 26) SF 136
Unnumbered paragraph 3 amended

147.102 Physicians and surgeons, psychologists, chiropractors, dentists, and osteopaths. Notwithstanding the provisions of this title, every application for a license to practice medicine and surgery, psychology, chiropractic, dentistry, osteopathy, or osteopathic medicine and surgery, shall be made directly to the secretary of the examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining board for such profession, and all examination, license, and renewal fees received from such persons licensed to practice any of such professions shall be

paid to and collected by the secretary of the examining board of such profession, who shall transmit the fees to the treasurer of state who shall deposit the fees in the general fund of the state. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government.

(83 Acts, ch 206, § 9) HF 613

Amended

CHAPTER 148A

PHYSICAL THERAPISTS

148A.4 Requirements to practice. Each applicant for a license to practice physical therapy shall:

1. Be a graduate of an accredited high school and have completed a course of study in, and hold a diploma or certificate issued by a school of physical therapy approved by the board of physical and occupational therapy examiners.

2. Have passed an examination administered by the board of physical and occupational therapy examiners.

(83 Acts, ch 101, § 27) SF 136

Subsections 1 and 2 amended

CHAPTER 151

PRACTICE OF CHIROPRACTIC

151.1 "Chiropractic" defined. For the purpose of this title the following classes of persons shall be deemed to be engaged in the practice of chiropractic:

1. Persons publicly professing to be chiropractors or publicly professing to assume the duties incident to the practice of chiropractic.

2. Persons who treat human ailments by the adjustment of the neuromusculoskeletal structures, primarily, by hand or instrument, through spinal care.

3. Persons utilizing differential diagnosis and procedures related thereto, withdrawing or ordering withdrawal of the patient's blood for diagnostic purposes, performing or utilizing routine laboratory tests, performing physical examinations, rendering nutritional advice, utilizing chiropractic physiotherapy procedures, all of which are subject to and authorized by section 151.8. However, a person engaged in the practice of chiropractic shall not profit from the sale of nutritional products coinciding with the nutritional advice rendered.

(83 Acts, ch 83, § 1, 2) SF 474

Subsection 2 amended

NEW subsection 3

151.3 License. Every applicant for a license to practice chiropractic shall:

1. Present satisfactory evidence that he possesses a preliminary education equal to the requirements for graduation from an accredited high school or other secondary school.

2. Present a diploma issued by a college of chiropractic approved by the chiropractic examiners.

3. Pass an examination prescribed by the chiropractic examiners in the subjects of anatomy, physiology, nutrition and dietetics, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including a clinical demonstration of vertebral palpation, nerve tracing and adjusting.

(83 Acts, ch 83, § 3) SF 474

Subsection 3 amended

151.4 Approved college. No college of chiropractic shall be approved by the chiropractic examiners as a college of recognized standing unless said college:

1. Requires for graduation or for the receipt of any chiropractic degree the completion of a course of study covering a period of four academic years totaling not less than four thousand sixty-minute hours in actual resident attendance.

2. Gives an adequate course of study in the subjects enumerated in subsection 3 of section 151.3 and including practical clinical instruction.

3. Publishes in a regularly issued catalogue the requirements for graduation and degrees as herein specified.

An approved college of chiropractic may include but is not limited to offerings of courses of study in procedures for withdrawing a patient's blood, performing or utilizing laboratory tests, and performing physical examinations for diagnostic purposes. A chiropractor, employed by an approved college of chiropractic and who has been trained to withdraw blood may withdraw blood and instruct, and supervise a student in the withdrawing of blood.

(83 Acts, ch 83, § 4) SF 474

NEW unnumbered paragraph 2 (after subsection 3)

151.8 Training in procedures used in practice. A chiropractor shall not use in his practice the procedures otherwise authorized by law unless he has received training in their use by a college of chiropractic offering courses of instructions approved by the board of chiropractic examiners.

Any chiropractor licensed as of July 1, 1974, may use the procedures authorized by law if he files with the board of chiropractic examiners an affidavit that he has completed the necessary training and is fully qualified in these procedures and possesses that degree of proficiency and will exercise that care which is common to physicians in this state.

A chiropractor using the additional procedures and practices authorized by this Act* shall be held to the standard of care applicable to any other health care practitioner in this state.

(83 Acts, ch 83, § 5) SF 474

* 83 Acts, ch 83

NEW unnumbered paragraph 3

151.10 Education requirements. A person who is an applicant for a license to practice chiropractic shall only be required to be tested for the adjunctive procedures specified in section 151.1, subsection 3 which the person chooses to utilize. A person licensed to practice chiropractic shall only be required to complete continuing education requirements for the adjunctive procedures specified in section 151.1, subsection 3 which the person chooses to utilize. A person who is an applicant for a license to practice chiropractic or a person licensed to practice chiropractic shall not be required to utilize any of the adjunctive procedures specified in section 151.1, subsection 3 to obtain a license or continue to practice chiropractic, respectively.

(83 Acts, ch 83, § 6) SF 474

NEW section

151.11 Rules. The board of chiropractic examiners shall adopt rules necessary to administer section 151.1, to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not specified in section 151.1, subsection 3. Such rules shall not be inconsistent with the practice of chiropractic and shall not expand the scope of practice of chiropractic or authorize the use of procedures not authorized by this chapter. These rules shall conform with chapter 17A.

(83 Acts, ch 83, § 7) SF 474

See Code editor's note at the end of this Supplement

NEW section

CHAPTER 153A

OPHTHALMIC DISPENSERS

153A.3 Apprentice ophthalmic dispensers. A person employed by a physician and surgeon, osteopathic physician, osteopathic physician and surgeon, optometrist, or certified ophthalmic dispenser for the purpose of obtaining practical experience and skill as an ophthalmic dispenser shall be registered with the state department as an apprentice. Persons desiring to be registered as an apprentice shall file an application with the state department of health on a form provided by the department. The application shall be signed by the applicant and the applicant's employer and accompanied by the registration fee prescribed under section 153A.11.

(83 Acts, ch 101, § 28) SF 136

Amended

CHAPTER 155

PHARMACISTS AND WHOLESALE DRUGGISTS

155.37 Product selection by pharmacist — restrictions.

1. *a.* If a physician, dentist, podiatrist or veterinarian prescribes, either in writing or orally, a drug by its brand or trade name and does not specifically state that only that designated brand or trade name drug product is to be dispensed, and if the pharmacy to which the prescription is presented or communicated has in stock one or more other drug products with the same generic name and demonstrated bioavailability as the one prescribed, the pharmacist may exercise his or her professional judgment in the economic interest of the patient or the patient's adult representative who is purchasing the prescription by selecting a drug product generically equivalent to but of lesser cost than the one prescribed for dispensing and sale to the patient. If the pharmacist does so, he or she shall inform the patient or the patient's adult representative of the savings which the patient will obtain as a result of substitution and pass on to the patient or the patient's representative the full difference in actual acquisition costs between the drug prescribed and the drug substituted.

b. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 239, 249, 249A, 252, 253, or 255, the pharmacist shall exercise professional judgment by selecting a drug product of the same generic name and demonstrated bioavailability but of a lesser cost than the one prescribed for dispensing and sale to the person unless the physician, dentist, or podiatrist specifically states that only that designated brand or trade name drug product is to be dispensed. However, a pharmacy to which the prescription is presented or communicated is not required to substitute a drug product of the same generic name and demonstrated bioavailability but of lesser cost unless the pharmacy has in stock one or more such drug products.

2. The pharmacist shall not dispense a generically equivalent drug product under this section if:

a. The prescriber indicates that no drug product selection shall be made; or
b. The person presenting the prescription indicates that only the specific drug product prescribed is to be dispensed, unless the substitution is one required by subsection 1, paragraph "b"; or

c. The drug product to be dispensed is listed in the nonequivalent drug product list.

3. If substitution of a generically equivalent drug product for the designated

brand or trade name drug product prescribed is made under this section, the pharmacist making the substitution shall note that fact and the name of the manufacturer of the selected drug on the prescription presented by the patient or the patient's representative, or the substitution shall be reduced to writing by the pharmacist pursuant to section 155.33, subsection 2.

(83 Acts, ch 101, § 29) SF 136

Subsection 1, paragraph b amended

CHAPTER 157

COSMETOLOGY

157.8 Licensing of schools of cosmetology and instructors. It is unlawful for a school of cosmetology to operate unless the owner has obtained a license issued by the department. The owner shall file a verified application with the department on forms prescribed by the board. Any person employed as a cosmetology instructor in a licensed school of cosmetology shall be a licensed cosmetologist and shall possess a separate instructor's license which shall be renewed annually. An instructor shall file an application with the department on forms prescribed by the board. The school of cosmetology must pass a sanitary inspection under the provisions of section 157.6, and the course of study of the school must be approved by the board under the provisions of section 157.10. An annual inspection of each school of cosmetology, including the educational activities of each school, shall be conducted and completed by the board prior to renewal of the license.

The application for a license for a school shall be accompanied by the annual license fee determined pursuant to section 147.80 and shall state the name and location of the school and such other additional information as the board may require. The license is valid for one year and may be renewed. A license for a school of cosmetology shall not be issued for any space in any location where the same space is also licensed as a barber school.

The application for an instructor's license shall be accompanied by the annual license fee determined pursuant to section 147.80.

The number of instructors for each school shall be based upon total enrollment, with a minimum of two instructors employed on a full-time basis for up to thirty students and an additional instructor for each additional fifteen students. However, a school operated by an area community college prior to September 1, 1982 with only one instructor per fifteen students is not subject to this paragraph and may continue to operate with the ratio of one instructor to fifteen students.

(83 Acts, ch 68, § 1) HF 500

NEW unnumbered paragraph 4

157.11 Salon licenses.

Commencing January 1, 1977, a beauty salon shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department shall perform a sanitary inspection of each beauty salon annually and may perform a sanitary inspection of a beauty salon prior to the issuance of a license.

The application shall be accompanied by the annual license fee determined pursuant to section 147.80. The license is valid for one year and may be renewed.

A licensed school of cosmetology at which students practice cosmetology is exempt from licensing as a beauty salon.

(83 Acts, ch 206, § 10) HF 613

Unnumbered paragraph 1 amended

CHAPTER 158

BARBERING

158.3 License requirements.

1. An applicant shall be issued a license to practice barbering by the department when the applicant satisfies all of the following:

a. Presents to the department the certificate of a licensed physician and surgeon, osteopath, or osteopathic physician and surgeon that the applicant is free from any infectious or contagious disease.

b. Presents to the department a diploma, or other like evidence, issued by a licensed barber school indicating that the applicant has completed the course of study prescribed by the board.

c. Completes the application form prescribed by the board.

d. Passes an examination prescribed by the board. The examination shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method.

e. Presents a certificate, or satisfactory evidence, to the department that the applicant has successfully completed tenth grade, or the equivalent. The provisions of this subsection shall not apply to students enrolled in a barber school maintained at an institution under the control of a director of a division of the department of human services.

2. Notwithstanding the provisions of subsection 1, any person who completes the application form prescribed by the board and who submits satisfactory proof of having been a licensed barber in another state for at least twelve months in the twenty-four month period preceding the submission of the application shall be allowed to take the examination for a license to practice barbering. However, the examination requirement shall be waived for those persons who submit evidence of licensure in another state which has a reciprocal agreement with the state of Iowa under the provisions of sections 147.44 to 147.49.

3. Notwithstanding the provisions of subsection 1, any person who is registered as a barber's apprentice on the effective date of this chapter may apply to the department prior to October 1, 1976 and shall be issued a license to practice barbering upon payment of the fee prescribed under the provisions of section 147.80.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1, paragraph e amended

158.9 Barbershop licenses.

A barbershop shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department shall perform a sanitary inspection of each barbershop annually and may perform a sanitary inspection of a barbershop prior to the issuance of a license.

The application shall be accompanied by the annual license fee determined pursuant to section 147.80. The license is valid for one year and may be renewed.

A licensed barber shop shall not employ more than one licensed barber assistant for each five licensed barbers.

A licensed barber school at which students practice barbering is exempt from licensing as a barbershop.

(83 Acts, ch 206, § 11) HF 613

Unnumbered paragraph 1 amended

CHAPTER 159

DEPARTMENT OF AGRICULTURE

159.5 Powers and duties. The secretary of agriculture shall be the head of the department of agriculture which shall:

1. Carry out the objects for which the department is created and maintained.
2. Establish and maintain such divisions in the department as are necessary for the proper enforcement of the laws administered by it.
3. Consolidate the inspection service of the state in respect to the laws administered by the department so as to eliminate duplication of inspection insofar as practicable.
4. Maintain a weather division which shall, in co-operation with the United States weather bureau, collect and disseminate weather and phenological statistics and meteorological data, and promote knowledge of meteorology, phenology and climatology of the state. Said division shall be in charge of a director who shall be appointed by the secretary of agriculture, and shall be an officer of the United States weather bureau, if one be detailed for that purpose by the federal government.
5. Establish volunteer weather stations in one or more places in each county, appoint observers thereat, supervise such stations, receive reports of meteorological events and tabulate the same for permanent record.
6. Issue weekly weather and crop bulletins from April 1 to October 1 of each year, and edit and cause to be published monthly weather reports, containing meteorological matter in its relationship to agriculture, transportation, commerce and the general public.
7. Maintain a division of agricultural statistics, which shall, in co-operation with the United States bureau of agricultural economics, gather, compile, and publish statistical information concerning the condition and progress of crops, the production of crops, livestock, livestock products, poultry, and other such related agricultural statistics, as will generally promote knowledge of the agricultural industry in the state of Iowa. Such statistics, when published, shall constitute official agricultural statistics for the state of Iowa. Said division shall be in charge of a director who shall be appointed by the secretary of agriculture and who shall be an officer of the United States bureau of agricultural economics, if one be detailed for that purpose by the federal government.
8. Establish and maintain a marketing news service division in the department of agriculture which shall, in co-operation with the federal market news and grading division of the United States department of agriculture, collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced and handled in the state. Said division shall be in charge of a director who shall be appointed by the secretary of agriculture and shall be an officer of the federal market news and grading division of the United States department of agriculture, if one be detailed for that purpose by the federal government.
9. Inspect and supervise all cold storage plants and food producing or distributing establishments including the furniture, fixtures, utensils, machinery, and other equipment so as to prevent the production, preparation, packing, storage, or transportation of food in a manner detrimental to its character or quality.
10. Approve all methods of probing for foreign material content of any type of grain.
11. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of this title and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.
12. Establish and maintain a sheep promotion division in the department of agriculture which shall promote the consumption of lamb, mutton and the use of wool, aid in the orderly marketing of sheep and wool, and conduct other activities which are beneficial to the sheep industry in Iowa. Said division shall be in charge

of a director who shall be appointed by the secretary of agriculture. Funds appropriated for the department of agriculture for state aid to the Iowa sheep association are hereby authorized to be used together with other funds available for sheep promotion in establishing and maintaining the sheep promotion division, and said funds may be drawn and expended upon the order of the director with the approval of the secretary of agriculture.

13. Establish a swine tuberculosis eradication program including, but not limited to:

a. The inspection of swine herds in this state when the department finds that an animal from a swine herd has, or is believed to have, tuberculosis;

b. Ear tagging or otherwise physically marking all swine reacting positively to tests for tuberculosis;

c. Condemning any swine which has tuberculosis;

d. Depopulating any swine herd where tuberculosis is found to be generally present; and

e. Compensate the owners of condemned swine as provided under section 165.18, following the general procedures for filing claims and paying indemnities as provided in chapter 165.

If the department finds that the source of the tuberculosis in a swine herd is from another species of animal, except bovine, located on or near the premises on which the affected swine herd is located, the department may destroy those animals and indemnify the owners of the condemned animals as provided in chapter 163.

14. Annually inspect for sanitation the areas where food is prepared and where food is served, including but not limited to the utensils, machinery, and other equipment, in the adult penal or correctional facilities operated by the Iowa department of corrections and in the state training school and the Iowa juvenile home. For purposes of this subsection, community-based correctional facilities shall be considered operated by the Iowa department of corrections.

If a municipal corporation wants its local board of health to make the inspections required by this section on facilities located within its jurisdiction, the municipal corporation may enter into an agreement with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions.

The secretary of agriculture shall prepare a report on the inspections and shall send a copy of the report concerning the adult penal or correctional facilities to the director of the Iowa department of corrections. A copy of the report concerning the state training school and the Iowa juvenile home shall be sent to the director of the division of child and family services of the department of human services.

(83 Acts, ch 123, § 69, 209) HF 628

Subsection 13, paragraph e, unnumbered paragraph 1 amended

(83 Acts, ch 96, § 60, 157, 159) SF 464

Effective October 1, 1983

Subsection 14 amended

159.11 Agricultural statistics. Agricultural statistics shall be collected each year by the department, which shall design surveys, collect data and publish county estimates of agricultural items. The department may make public announcements of the information collected and may provide copies without fee to vocational agricultural schools, state agricultural extension service and libraries. The department shall establish subscription fees for access by other parties to the information collected under this section. The fees shall be deposited in the general fund of the state. Production and acreage data collected under this section and provided by the department to the department of revenue shall not be adjusted for accuracy by the department of revenue.

(83 Acts, ch 202, § 3) HF 638

Amended

159.12 Returns. The department shall require each person requested to make answers to such inquiries as may be necessary to allow the return of the statistics, carefully footed and summarized, to the department each year.

(83 Acts, ch 202, § 4) HF 638

Amended

CHAPTER 160

STATE APIARIST

160.15 Appropriation by county. All expenses, except salaries, incurred by the state apiarist or the apiarist's assistants in the performance of their duties within a county shall be paid not to exceed two hundred dollars per annum for the purpose of eradication of diseases among bees. Such work of eradication shall be done in such county under the supervision of the state apiarist.

(83 Acts, ch 123, § 70, 209) HF 628

Amended

CHAPTER 162

CARE OF ANIMALS IN COMMERCIAL ESTABLISHMENTS

162.13 Penalties. Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, hobby kennel or public auction, as defined in section 162.2, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration shall constitute a simple misdemeanor and each day of such operation shall constitute a separate offense.

Failure of a person licensed or registered to adequately house, feed, or water dogs or cats, or both, in the person's possession or custody or failure of an operator of a licensed pet shop to adequately house, feed, or water a vertebrate animal is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed by euthanasia at the discretion of the secretary and the failure is also grounds for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or chapter 717, by a person licensed or registered under this chapter is grounds for revocation or suspension of the license or registration certificate.

It shall be unlawful for a dealer, as defined in section 162.2, subsection 11, to knowingly ship a diseased animal. A dealer violating the provisions of this paragraph shall be subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this paragraph shall constitute a separate offense.

(83 Acts, ch 149, § 1) SF 221

Unnumbered paragraph 2 amended

CHAPTER 163A

BRUCELLOSIS CONTROL IN SWINE

163A.12 Owner requesting test. If the owner requests the department to inspect and test breeding swine for brucellosis, and agrees to comply with the rules made by the department under section 163A.9, the department may designate a veterinarian to make an inspection and test, with the expense to be paid as provided in section 164.6 for cattle brucellosis testing, but only to the extent the funds provided in that section are not required for the cattle testing program.

(83 Acts, ch 123, § 71, 209) HF 628

Amended

CHAPTER 164

ERADICATION OF BOVINE BRUCELLOSIS

164.6 Expense of test. If the owner agrees to comply with and carry out the rules made by the department under section 164.4, the expense of the inspection and test shall be borne by the United States department of agriculture, or by the department, or by the brucellosis and tuberculosis eradication fund or any combination of these.

(83 Acts, ch 123, § 72, 209) HF 628
Amended

164.21 Amount of indemnity. The department shall certify the claim of the owner for each animal slaughtered in accordance with this chapter. An infected herd may be completely depopulated and indemnity paid on individual animals when, in the opinion of the officials of the department and officials of the animal research service of the United States department of agriculture, the disease cannot be adequately controlled by routine testing. .

Indemnity can only be paid if money is available in the brucellosis and tuberculosis eradication fund and if indemnity payment is also made by the United States department of agriculture.

In the case of individual payment, all animals shall be individually appraised and the amount of indemnity shall be equal to the difference between the slaughter value and the appraisal price, less the amount of indemnity paid by the United States department of agriculture. The total amount of indemnity paid by the brucellosis and tuberculosis eradication fund for a grade animal or a purebred animal shall not exceed two hundred dollars. However, if a purebred animal is purchased and owned for at least one year before testing and the owner can verify the actual cost, the secretary of agriculture may award the payment of an additional indemnification not to exceed five hundred fifty dollars or the actual cost of the animal when purchased, whichever is less.

(83 Acts, ch 123, § 73, 209) HF 628
Unnumbered paragraphs 2 and 3 amended

164.28 Certification of claims. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

CHAPTER 165

ERADICATION OF BOVINE TUBERCULOSIS

165.18 Brucellosis and tuberculosis eradication fund.

1. A brucellosis and tuberculosis eradication fund is created in the office of the secretary of agriculture, to be used together with state and federal funds available to pay:

- a. The indemnity and other expenses provided in this chapter.
- b. The indemnity as set out in section 164.21 and other expenses provided in chapter 164.
- c. The expenses of the inspection and testing program provided in chapter 163A, but only to the extent that the moneys in the fund are not required for expenses incurred under chapter 164 or 165.
- d. Indemnities as provided in section 159.5, subsection 13, but only to the extent that the moneys in the fund are not required to pay expenses under chapter 163A, 164, or 165.

2. If it appears to the secretary of agriculture that the balance in the fund on January 20 is insufficient to carry on the work in the state for the following fiscal

year, the secretary shall notify the board of supervisors of each county to levy an amount sufficient to pay the expenses estimated to be incurred under subsection 1 for the following fiscal year, subject to a maximum levy of thirty- three and three-fourths cents per thousand dollars of assessed value of all taxable property in the county.

3. Not later than December 15 or June 15 of a year in which the tax is collected, the county treasurer shall transmit the amount of the tax levied and collected to the treasurer of state, who shall credit it to the county brucellosis and tuberculosis eradication fund.

(83 Acts, ch 123, § 74, 209) HF 628

NEW section

165.22 Availability of county fund. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

165.23 Exhaustion of state allotment. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

165.25 Certification of claims. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

165.30 Allotment of funds. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

165.31 Transfer of funds. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

165.34 Duty to levy tax. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

CHAPTER 169

VETERINARY PRACTICE ACT

169.3 Definitions. When used in this chapter:

1. "*Animal*" means any nonhuman primate, dog, cat, rabbit, rodent, fish, reptile, and other vertebrate or nonvertebrate life forms, living or dead, except domestic poultry.

2. "*Veterinary medicine*" includes veterinary surgery, veterinary obstetrics, veterinary dentistry, and all other branches or specialties of veterinary medicine.

3. "*Practice of veterinary medicine*" means any of the following:

a. To diagnose, treat, correct, change, relieve or prevent, for a fee, any animal disease, deformity, defect, injury or other physical or mental conditions or cosmetic surgery; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, for a fee; or to evaluate or correct sterility or infertility, for a fee; or to render, advise or recommend with regard to any of the above for a fee.

b. To represent, directly or indirectly, publicly or privately, an ability or willingness to do an act described in subsection 3, paragraph "a".

c. To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection 3, paragraph "a".

4. "*Veterinarian*" means a person who has received a doctor of veterinary medicine degree or its equivalent from an accredited or approved college of veterinary medicine.

5. "*Licensed veterinarian*" means a person who is validly and currently licensed to practice veterinary medicine in the state of Iowa.

6. "*Accredited or approved college of veterinary medicine*" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation or approval by the board.

7. "*Board*" means the Iowa board of veterinary medicine.

8. "*ECFVG certificate*" means a current certificate issued by the American veterinary medical association educational commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

9. "*Person*" means natural person or individual.

10. "*Fee*" means monetary compensation given for a service consisting primarily of an act or acts described in subsection 3, paragraph "a".

11. "*Accepted livestock management practice*" includes but is not limited to: Dehorning, castration, docking, vaccination, pregnancy testing, clipping swine needle teeth, ear notching, drawing of blood, relief of bloat, draining of abscesses, branding, and other surgical acts of no greater magnitude; artificial insemination, collecting of semen, implanting of growth hormones, feeding commercial feed defined in section 198.3, or administration or prescription of drugs performed by the owner or contract-feeder thereof of livestock, his or her bona fide employee, or anyone rendering gratuitous assistance with respect to such livestock. Nothing contained herein shall be construed to permit any person except those persons enumerated in this subsection, to provide purportedly gratuitous assistance with regard to the treatment of animals other than advisory assistance, in return for the purchase of goods or services.

12. "*Owner*" means any person, association, partnership, corporation, or other legal entity in whom is vested the ownership, dominion over, or title to an animal, including one who is obligated by law to care for such animal.

13. "*Veterinary assistant*" means an assistant employed by a licensed veterinarian as an animal technician and any other assistant the board designates by rule.

(83 Acts, ch 115, § 2) SF 444

NEW subsection 13

169.4 License requirement and exceptions. A person may not practice veterinary medicine in the state who is not a licensed veterinarian or the holder of a valid temporary permit issued by the board. This chapter shall not be construed to prohibit:

1. An employee of the federal, state, or local government from performing official duties.

2. A person who is a veterinary student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian. The board shall issue to any veterinary medicine student who attends an accredited veterinary medicine college or school and who has been certified as being competent by an instructor of such college or school to perform veterinary duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian, a certificate authorizing the veterinary medicine student to perform such functions.

3. A veterinarian currently licensed in another state from consulting with a licensed veterinarian in this state.

4. Any manufacturer, wholesaler, or retailer from advising with respect to or selling in the ordinary course of trade or business, drugs, feeds, including, but not limited to customer-formula feeds as defined in section 198.3, appliances, and other products used in the prevention or treatment of animal diseases.

5. The owner of an animal or the owner's bona fide employees from caring for and treating the animal in the possession of such owner except where the ownership of the animal was transferred solely for the purpose of circumventing this chapter.

6. A member of the faculty of an accredited college of veterinary medicine from performing functions in the classrooms or continuing education. However, those faculty members who have professional responsibility to the owner must be licensed. A temporary permit may be granted for a period not to exceed two years to interns or residents who are on the staff of the college of veterinary medicine of Iowa state university of science and technology. Such permit shall be renewable annually upon the application of the dean of the college of veterinary medicine.

7. Any person from manufacturing, selling, offering for sale, or applying any pesticide, insecticide, or herbicide.

8. Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals.

9. Any veterinary assistant employed by a licensed veterinarian from performing duties other than diagnosis, prescription, or surgery under the direct supervision of such veterinarian which assistant has been issued a certificate by the board subject to section 169.20.

10. A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate for performing duties or actions under the direction or supervision of a licensed veterinarian.

11. Any person from advising with respect to or performing accepted livestock management practices.

12. Any person from engaging in the full-time study of the improvement of the quality of livestock.

13. Any person from performing post-mortem examinations on swine or cattle.

14. Any person from collecting or evaluating semen from livestock or poultry, or artificial insemination of livestock and poultry.

15. Any person from castrating, dehorning or branding notwithstanding section 187.14.

(83 Acts, ch 115, § 3) SF 444

Subsections 2 and 9 amended

169.5 Board of veterinary medicine.

1. The governor shall appoint, subject to confirmation by the senate, a board of five individuals, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians, but shall be knowledgeable in the area of animal husbandry and who shall represent the general public. The representatives of the general public shall not prepare, grade or otherwise administer examinations to applicants for license to practice veterinary medicine. The board shall be known as the Iowa board of veterinary medicine. Each licensed veterinarian shall be actively engaged in veterinary medicine and shall have been so engaged for a period of five years immediately preceding appointment, the last two of which shall have been in Iowa. A member of the board shall not be employed by or have any material or financial interest in any wholesale or jobbing house dealing in supplies, equipment or instruments used or useful in the practice of veterinary medicine. The person designated as the state veterinarian shall serve as secretary of the board.

Professional associations or societies composed of licensed veterinarians may recommend the names of potential board members to the governor, but the governor is not bound by the recommendations.

2. The members of the board shall be appointed for a term of three years except the terms of the members of the initial board shall be rotated in such a manner that at least one member shall retire each year and a successor be appointed. The term of each member shall commence and end as provided by section 69.19. Members shall serve no more than three terms or nine years total, whichever is less.

3. Any vacancy in the membership of the board caused by death, resignation,

removal, or otherwise, shall be filled for the period of the unexpired term in the same manner as original appointments.

4. Members of the board shall, in addition to necessary traveling and other expenses, set their own per diem compensation at a rate not exceeding forty dollars per day for each day actually engaged in the discharge of their duties including compensation for the time spent traveling to and from the place of conducting the examination and for a reasonable number of days for the preparation of examination and the reading of papers, in addition to the time actually spent in conducting examinations, within the limits of funds appropriated to the board.

5. The department of agriculture shall furnish the board with all articles and supplies required for the public use and necessary to enable the board to perform the duties imposed upon it by law. Such articles and supplies shall be obtained by the department in the same manner in which the regular supplies for the department are obtained, and the department shall assess the costs to the board for such articles and supplies. The board shall also reimburse the department for direct and indirect administrative costs incurred in issuing and renewing the licenses.

6. The board shall meet at least once each year as determined by the board. Other necessary meetings may be called by the president of the board by giving proper notice. Except as provided, a majority of the board constitutes a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer, or grade examinations, or to deliberate the qualifications of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

7. At its annual meeting, the board shall organize by electing a president and such other officers as may be necessary. Officers of the board serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairperson of board meetings.

The duties of the board shall include carrying on the correspondence of the board, keeping permanent accounts and records of all receipts and disbursements by the board and of all board proceedings, including the disposition of all applications for license, and keeping a register of all persons currently licensed by the board. All board records shall be open to public inspection during regular office hours.

At the end of each fiscal year, the president and secretary shall submit to the governor a report on the transactions of the board, including an account of moneys received and disbursed.

8. The board shall set the fees by rule for a license to practice veterinary medicine issued upon the basis of the examination. It shall also set the fees by rule for a license granted on the basis of reciprocity, a renewal of a license to practice veterinary medicine, a certified statement that a licensee is licensed to practice in this state, and an issuance of a duplicate license when the original is lost or destroyed. The fee shall be based upon the administrative costs of sustaining the board and shall include, but shall not be limited to, the following:

- a. Per diem, expenses, and travel of board members.
- b. Costs to the department of agriculture for administration of this chapter.
9. Upon a three-fifths vote, the board may:
 - a. Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the state.
 - b. Issue, renew, or deny issuance or renewal of licenses and temporary permits to practice veterinary medicine in this state.
 - c. Establish and publish annually a schedule of fees for licensing and registration of veterinarians. The fee schedule shall be based on the board's anticipated financial requirements for the year.
 - d. Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining licensed veterinarians.
 - e. Hold hearings on all matters properly brought before the board and administer

oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. An administrative hearing officer may be appointed pursuant to section 17A.11, subsection 3 to perform those functions which properly repose in an administrative hearing officer.

f. Employ full-time or part-time personnel, professional, clerical, or special, as are necessary to effectuate the provisions of this chapter.

g. Appoint from its own membership one or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable.

h. Bring proceedings in the courts for the enforcement of this chapter or any regulations made pursuant to this chapter.

i. Adopt, amend, or repeal rules relating to the standards of conduct for, testing of, and revocation or suspension of certificates issued to veterinary lay assistants; providing that no certificate can be suspended or revoked by less than two-thirds vote of the entire board in a proceeding conducted in compliance with section 17A.12.

j. Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect the provision of this chapter, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose of enabling the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

(83 Acts, ch 115, § 4) SF 444

Subsections 1 and 7 amended

Subsection 9, unnumbered paragraph 1, and paragraph h amended

169.8 Qualifications. Any person desiring a license to practice veterinary medicine in this state shall make written application to the board on a form approved by the board. The application shall show that the applicant is a graduate of an accredited or approved college of veterinary medicine or the holder of an ECFVG certificate. The application shall also show such other information and proof as the board may require by rule. The application shall be accompanied by a fee in the amount established and published by the board.

If the board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next examination, or if the applicant is eligible for license without examination under section 169.10, the board may grant a license to the applicant. If an applicant is found not qualified to take the examination or for a license without examination, the secretary of the board shall immediately notify the applicant in writing of such finding and the grounds therefor. An applicant found unqualified may request a hearing on the question of his or her qualification under the procedure set forth in section 169.14. Any applicant who is found not qualified shall be allowed the return of the application fee.

Every individual licensed under this chapter shall keep the license displayed in the place at which an office is maintained.

The name, location, number of years of practice of the person to whom a license is issued, the number of the certificate, and the date of registration thereof shall be entered in a book kept in the office of the department of agriculture, to be known as the "registry book", and the same shall be open to public inspection.

When any person licensed to practice under this chapter changes residence, the board shall be notified within thirty days and such change shall be noted in the registry book.

(83 Acts, ch 115, § 5, 6) SF 444

Unnumbered paragraph 3 struck

Unnumbered paragraph 5 (formerly 6) amended

169.9 Examinations. The board shall hold at least one examination during each year and may hold such additional examinations as it deems necessary. The secretary shall give public notice of the time and place for each examination at least ninety days in advance of the date set for the examination. A person desiring to take an examination shall make application at least thirty days before the date of the examination.

The preparation, administration, and grading of examinations shall be governed by rules prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to establish competency to practice veterinary medicine in the judgment of the board. All examinees shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the board may deem necessary. The board may adopt and use the examination prepared by the national board of veterinary examiners as a part of the examination given to examinees.

After each examination, the board shall notify each examinee of the examination result, and the board shall issue licenses to the individuals successfully completing the examination. The board shall record the new licenses and issue a certificate of registration to the new licensees. Any individual failing an examination shall be admitted to any subsequent examination on payment of the application fee.

In all written examinations the identity of the individual taking the same shall not be disclosed upon the examination papers in such a way as to enable the members of the examining board to know by whom written until after the papers have been passed upon.

(83 Acts, ch 115, § 7) SF 444

Unnumbered paragraph 3 amended

169.13 Discipline of licensees. The board of veterinary medicine, after due notice and hearing, may revoke or suspend a license to practice veterinary medicine if it determines that a veterinarian licensed to practice veterinary medicine is guilty of any of the following acts or offenses:

1. Knowingly making misleading, deceptive, untrue, or fraudulent representation in the practice of the profession.

2. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication or guilt is either withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state is conclusive evidence.

3. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of veterinary medicine.

4. Having the person's license to practice veterinary medicine revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

5. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice veterinary medicine.

6. Being adjudged mentally incompetent by a court of competent jurisdiction. The adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

7. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine as defined in rules adopted by the board, in which proceeding actual injury to

an animal need not be established; or the committing by a veterinarian of an act contrary to honesty, justice, or good morals, whether the act is committed in the course of the practice or otherwise, and whether committed within or without this state.

8. Inability to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The board, upon probable cause, may compel a veterinarian to submit to a mental or physical examination by designated physicians. Failure of a veterinarian to submit to an examination constitutes an admission to the allegations made against that veterinarian and the finding of fact and decision of the board may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a veterinarian shall be afforded an opportunity to demonstrate that the veterinarian can resume the competent practice of veterinary medicine with reasonable skill and safety to animals.

A person licensed to practice veterinary medicine who makes application for the renewal of the person's license as required by section 169.12 gives consent to submit to a mental or physical examination as provided by this paragraph when directed in writing by the board. All objections shall be waived as to the admissibility of the examining physician's testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a veterinarian in another proceeding and are confidential except for other actions filed against a veterinarian to revoke or suspend that person's license.

9. Willful or repeated violation of lawful rules adopted by the board or violation of a lawful order of the board, previously entered by the board in a disciplinary hearing.

(83 Acts, ch 115, § 8) SF 444

Struck and rewritten

169.14 Proceedings. A proceeding for the revocation or suspension of a license to practice veterinary medicine or to discipline a person licensed to practice veterinary medicine shall be substantially in accord with the following:

1. The board, upon its own motion or upon verified complaint in writing, may issue an order fixing the time and place for hearing. A written notice of the time and place of the hearing, together with a statement of the charges, shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action.

2. If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by those rules. If the licensee fails to appear either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing.

3. The hearing shall be before a member or members designated by the board or before a hearing officer appointed by the board. The presiding board member or hearing officer may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The member or officer shall issue subpoenas at the request and on behalf of the licensee.

4. A mechanized or stenographic record of the proceedings shall be kept. The licensee shall be given the opportunity to appear personally and by attorney, with the right to produce evidence in one's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or hearing officer or to answer a proper question put to that person during the hearing,

the presiding member or hearing officer may invoke the aid of a court of competent jurisdiction in requiring the attendance and testimony of that person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

6. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and attorney shall be given the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge upon the merits on the basis of the evidence in the record before it.

7. Upon three members of the board voting in favor of finding the licensee guilty of an act or offense specified in section 169.13, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

- a. Suspend the license to practice veterinary medicine for a period to be determined by the board.
- b. Revoke the license to practice veterinary medicine.
- c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the veterinarian on probation. The probation ordered may be vacated upon noncompliance. The board may restore and reissue a license to practice veterinary medicine, and may impose a disciplinary or corrective measure which it might originally have imposed.

8. Judicial review of the board's action may be sought in accordance with the terms of chapter 17A.

9. The filing of a petition for review does not in itself stay execution or enforcement of board action. Upon application, the board or the review court, in appropriate cases, may order a stay pending the outcome of the review proceedings.

(83 Acts, ch 115, § 9) SF 444

Struck and rewritten

169.15 Appeal. Any party aggrieved by a decision of the board may appeal the matter to the district court as provided in section 17A.19.

(83 Acts, ch 115, § 10) SF 444

Amended

169.16 Reinstatement. A person whose license is suspended or revoked may be relicensed or reinstated at any time by a vote of five members of the board after written application made to the board showing cause justifying relicensing or reinstatement. Examination of the applicant may be waived by the board.

(83 Acts, ch 115, § 11) SF 444

Struck and rewritten

169.19 Enforcement — penalties.

1. Any person who practices veterinary medicine without a currently valid license or temporary permit is guilty of a fraudulent practice. Each act of such unlawful practice shall constitute a distinct and separate offense.

2. A person who shall practice veterinary medicine without a currently valid license or temporary permit shall not receive any compensation for services so rendered.

3. The county attorney of the county in which any violation of this chapter occurs shall conduct the necessary prosecution for such violation. Notwithstanding this provision, the board of veterinary medicine or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. The action brought to restrain a person from engaging in the practice of veterinary medicine without possessing a license shall be brought in the name of the state of Iowa. If the court finds that the individual is violating or threatening to violate this chapter it shall enter an injunction restraining the individual from such unlawful acts.

4. The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other remedy set forth in this section.

5. The department of agriculture shall co-operate with the board of veterinary medicine in the enforcement of the provisions of this chapter.

(83 Acts, ch 115, § 12) SF 444

Subsection 3 amended

169.20 Veterinary assistants. A veterinarian may employ certified veterinary assistants for any purpose other than diagnosis, prescription or surgery. Veterinary assistants must act under the direct supervision of a licensed veterinarian.

The board shall issue certificates to veterinary assistants who have met the educational, experience and testing requirements as the board shall specify by rule. The certificate is not a license and does not expire. The certificate may be suspended or revoked, or any other disciplinary action may be taken as specified in section 258A.3, subsection 2. All disciplinary actions shall be taken pursuant to section 169.14.

(83 Acts, ch 115, § 1) SF 444

NEW section

CHAPTER 170B

IOWA HOTEL SANITATION CODE

170B.3 Authority to enforce the Iowa hotel sanitation code. The secretary has sole and exclusive authority to regulate, license, and inspect hotels and to enforce the Iowa hotel sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from hotels except as provided for in the Iowa hotel sanitation code.

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into the agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the Iowa food service sanitation code pursuant to section 170A.4 and to enforce the food and beverage vending machine laws pursuant to section 191A.14.

Each local board of health that is responsible for enforcing the Iowa hotel sanitation code within its jurisdiction, pursuant to an agreement, shall make an annual report to the secretary providing the following information:

1. The total number of hotel licenses granted or renewed during the year.
2. The number of hotel licenses granted or renewed during the year broken down into the following categories:
 - a. Hotels containing fifteen guest rooms or less.
 - b. Hotels containing more than fifteen but less than thirty-one guest rooms.
 - c. Hotels containing more than thirty but less than seventy-six guest rooms.
 - d. Hotels containing more than seventy-five but less than one hundred fifty guest rooms.
 - e. Hotels containing one hundred fifty or more guest rooms.
3. The amount of money collected in license fees during the year.
4. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the Iowa hotel sanitation code within their respective jurisdictions. If the secretary determines that the Iowa hotel sanitation code is enforced by a local board of health, such enforcement shall be accepted in lieu of enforcement by the depart-

ment in that jurisdiction. If the secretary determines that the Iowa hotel sanitation code is not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

(83 Acts, ch 101, § 30) SF 136

Unnumbered paragraph 2 amended

CHAPTER 172C

CORPORATE OR PARTNERSHIP FARMING

172C.8 Reports by beneficiaries.

1. Any corporation identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 1, shall file with the secretary of state on or before March 31 of each year, on forms supplied by the secretary of state, a report containing the information set forth in section 172C.5, with respect to land owned by a fiduciary or trustee on behalf of the corporation.

2. Any limited partnership identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 2, shall file with the secretary of state on or before March 31 of each year, on forms supplied by the secretary of state, a report containing the information set forth in section 172C.6, with respect to land owned by a fiduciary or trustee on behalf of the limited partnership.

3. Any nonresident alien identified as a beneficiary in a report filed with the secretary of state pursuant to section 172C.7, subsection 3, shall file with the secretary of state on or before March 31 of each year on forms supplied by the secretary of state, a report containing the information set forth in section 567.8, with respect to land owned by a fiduciary or trustee on behalf of the nonresident alien.

(83 Acts, ch 101, § 31) SF 136

Subsection 3 amended

CHAPTER 173

STATE FAIR AND EXPOSITION

173.14 Powers and duties of board. The state fair board shall have the custody and control of the state fairgrounds, including the buildings and equipment thereon belonging to the state, and shall have power to:

1. Erect and repair buildings on said grounds and make other necessary improvements thereon.

2. Regulate the construction of street railways within said grounds and determine the motive power by which the same shall be propelled.

3. Hold an annual fair and exposition on said grounds.

4. Prepare premium lists and establish rules of exhibition for such fair which shall be published by the board not later than the first day of June in each year.

5. Take and hold property by gift, devise, or bequest for fair purposes, and the president, secretary, and treasurer of the board shall have charge and control of the same, subject to the action of the board. Such officers shall give bonds as required in the case of executors, to be approved by the board and filed with the secretary of state.

6. The state fair board may grant a written permit to such persons as it deems proper to sell fruit, provisions, and other articles not prohibited by law, under such regulations as the board may prescribe.

7. The president of the state fair board may appoint such number of special

police as he may deem necessary and such officers are hereby vested with the powers and charged with the duties of peace officers.

8. Adopt all necessary rules in the discharge of its duties and in the exercise of the powers herein conferred.

9. With the approval of the executive council, purchase real estate adjacent to the state fairgrounds for use in conjunction with the state fairgrounds. A purchase of real estate may be made by written contract providing for payment over a period of years. The obligations of the contract shall constitute a debt or charge against the state fair board but not against the general fund of the state. The title to real estate acquired under this subsection and any improvements erected on the real estate shall be taken and held in the name of the state of Iowa and shall be under the custody and control of the state fair board. The state comptroller shall transfer moneys to the appropriate agencies in order to carry out the intent of this section.

(83 Acts, ch 195, § 23) SF 551

NEW subsection 9

CHAPTER 174

COUNTY AND DISTRICT FAIRS

174.13 County aid. The board of supervisors of the county in which a society is located may appropriate moneys to be used for fitting up or purchasing fairgrounds for the society or for aiding boys and girls 4-H club work and payment of agricultural and livestock premiums in connection with the fair, if the society owns or leases at least ten acres of land for the fairground and owns or leases buildings and improvements on the land of at least eight thousand dollars in value. A society may meet the requirement of owning or leasing land, buildings, and improvements through ownership by a joint entity under chapter 28E, of which the society is a part.

(83 Acts, ch 123, § 75, 209) HF 628

Amended

174.14 Fairground aid. The board of supervisors of a county which has acquired real estate for county or district fair purposes and which has a society using the real estate, may appropriate moneys to be used for the erection and repair of buildings or other permanent improvements on the real estate, and for the payment of debts contracted in the erection or repair and payment of agricultural and livestock premiums. In addition, the net proceeds from the sale of fairground sites and structures on the sites shall be placed in this fund to be used for the erection of permanent buildings on a new fairground site or the cost of moving structures from the old to the new site.

(83 Acts, ch 123, § 76, 209) HF 628

NEW section

CHAPTER 175

FAMILY FARM DEVELOPMENT

175.2 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Agricultural land*" means land suitable for use in farming.
2. "*Agricultural improvements*" means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. "Agricultural improvements" includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.
3. "*Authority*" means the Iowa family farm development authority established in section 175.3.

4. "*Bankhead-Jones Farm Tenant Act*" means the Act cited as 50 Stat. 522 (1937), formerly codified as 7 U.S.C. s. 1000 et seq., repealed by Pub. L. No. 87-128 (1961).

5. "*Beginning farmer*" means an individual with a low or moderate net worth who engages in farming or wishes to engage in farming.

6. "*Bonds*" means bonds issued by the authority pursuant to this chapter.

7. "*Depreciable agricultural property*" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1954 as defined in section 422.4.

8. "*Farming*" means farming as defined in section 172C.1, subsection 6.

9. "*Low or moderate net worth*" means an aggregate net worth of an individual and the individual's spouse and children, if any, of less than one hundred thousand dollars.

10. "*Mortgage*" means a mortgage, mortgage deed, deed of trust, or other instrument creating a first lien, subject only to title exceptions and encumbrances acceptable to the authority, including any other mortgage liens of equal standing with or subordinate to the mortgage loan retained by a seller or conveyed to a mortgage lender, on a fee interest in agricultural land and agricultural improvements.

11. "*Mortgage lender*" means a bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the federal land bank or any of its local associations, or any other financial institution or entity authorized to make mortgage loans or secured loans in this state.

12. "*Mortgage loan*" means a financial obligation secured by a mortgage.

13. "*Net worth*" means total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the family's net worth.

14. "*Note*" means a bond anticipation note issued by the authority pursuant to this chapter.

15. "*Secured loan*" means a financial obligation secured by a chattel mortgage, security agreement or other instrument creating a lien on an interest in depreciable agricultural property.

16. "*State agency*" means any board, commission, department, public officer, or other agency or authority of the state of Iowa.

17. "*Permanent soil and water conservation practices*" and "*temporary soil and water conservation practices*" have the same meaning as defined in section 467A.42.

18. "*Conservation farm equipment*" means the specialized planters, cultivators, and tillage equipment used for reduced tillage or no-till planting of row crops.

The authority may establish by rule further definitions applicable to this chapter and clarification of the definitions in this section, as necessary to assure eligibility for funds, insurance or guarantees available under federal laws and to carry out the public purposes of this chapter.

(83 Acts, ch 93, § 1) HF 518

Subsection 18 amended

175.3 Establishment of authority.

1. The Iowa family farm development authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment. The powers of the authority are vested in and exercised by a board

of eleven members with nine members appointed by the governor subject to confirmation by the senate. The treasurer of state and the secretary of agriculture are ex officio nonvoting members. No more than five members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, the real estate sales industry, farmers, beginning farmers, average taxpayers, local government, and any other person specially interested in family farm development.

2. The appointed members of the authority shall be appointed by the governor for terms of six years except that, of the first appointments, three members shall be appointed for terms of two years and three members shall be appointed for a term of four years. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. An appointed member of the authority may be removed from office by the governor for misfeasance, malfeasance or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing. An appointed member of the authority may also serve as a member of the Iowa housing finance authority.

3. Six members of the authority constitute a quorum and the affirmative vote of a majority of the voting members is necessary for any substantive action taken by the authority. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

4. The appointed members of the authority are entitled to receive forty dollars per diem for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

5. The appointed members of the authority and the executive director shall give bond as required for public officers in chapter 64.

6. Meetings of the authority shall be held at the call of the chairperson or whenever two members so request.

7. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as they determine, but the executive director shall serve as secretary to the authority.

8. The net earnings of the authority, beyond that necessary for retirement of its notes, bonds or other obligations or to implement the public purposes and programs authorized, shall not inure to the benefit of any person other than the state. Upon termination of the existence of the authority, title to all property owned by the authority including any net earnings shall vest in the state.

(83 Acts, ch 101, § 32) SF 136
Subsection 1 amended

175.30 Assets — account. The trust assets received under the application made pursuant to section 175.28 other than cash shall be taken on proper transfer or assignment from the department of human services to the authority and administered as provided in this chapter. These funds may be used for any of the purposes of this chapter, including but not limited to costs of administration and insuring or guaranteeing payment of all or a portion of loans made pursuant to this chapter.

Beginning with the effective date of this Act*, the authority shall establish an insurance or guarantee loan program with those funds received pursuant to section 175.28 to the extent those funds were not committed under a program authorized by this chapter on the effective date of this Act*. This program shall provide for the insuring or guaranteeing of seventy-five percent of the amount of an agricultural loan, not in excess of twenty-five thousand dollars, made to a beginning farmer to provide new operating moneys for farming purposes in this state. The authority shall insure or guarantee only one such loan of that farmer. The authority shall insure or

guarantee a loan for only one year but with the option to extend the insurance or guarantee once for an additional year. The authority shall not insure or guarantee a loan where the ratio of the beginning farmer's liabilities, excluding the amount of the loan, to assets is greater than three to one. Provision shall be made in the insuring or guaranteeing of a loan that only those funds set aside for this program as provided in this paragraph shall be used for the payment of all or a portion of the loan insured or guaranteed. Provision shall also be made which provides that the authority shall pay under its insurance or guarantee seventy-five percent of the actual amount of the default. A mortgage lender which seeks to have a loan of the lender insured or guaranteed under this program shall apply to the authority for the insurance or guarantee pursuant to rules established by the authority for this purpose. This program shall not obligate the state, authority, or other agency except to the extent provided in this paragraph. The authority shall define by rule what constitutes a loan made to provide new operating moneys which definition shall not include a loan made for acquisition of agricultural land or agricultural improvements, or the refinancing of an existing loan even if made for operating purposes.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

(83 Acts, ch 109, § 1, 2, 3) HF 557

*Effective when agreement between Iowa family farm development authority and secretary of agriculture of the United States is amended to increase from 3% to 5% the maximum percentage of the trust assets covered by the agreement which may be used for administration expenses; authority shall seek amendment

NEW unnumbered paragraph 2

175.34 Soil conservation loan program.

1. The authority shall establish a soil conservation loan program to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land within the state by making financing for this program available to credit worthy owners or operators of agricultural land within the state. The authority may provide this financing under the program by direct loans, loans to lenders, and the purchase of loans in the manner provided in sections 175.13 through 175.15, except that the financing pursuant to these sections shall not be limited to beginning farmers. In addition under the program, the authority may enter into a loan agreement with the owner or operator to finance in whole or in part the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land in the state. The repayment obligation of the owner or operator may be unsecured, or may be secured by a mortgage or security agreement or by other security as the authority deems advisable, and may be evidenced by one or more notes of the owner or operator. The loan agreement may contain terms and conditions as the authority deems advisable.

2. In addition to the other conditions and criteria established for the soil conservation loan program, the following apply:

a. Loans made pursuant to the soil conservation loan program shall only be made to the owner or operator of a farm located within the state for which a conservation plan has been developed by the soil conservation district and the project for which the loan is to be made has been approved by the district. However, loans under the soil conservation loan program for implementation of a permanent soil and water conservation practice shall not be remitted to the applicant until the applicant provides evidence that payment of the permanent soil and water conservation practice is arranged for and the soil conservation district certifies that the practice is completed and approved.

b. The program and financing provided pursuant to the program shall not be limited to beginning farmers but shall be available to all credit worthy owners or operators of agricultural land within the state, however in providing financing for the acquisition of conservation farm equipment preference shall be given those owners or operators of agricultural land who have the lower net worths.

c. The department of soil conservation or any other state agency and the commissioners and staffs of the soil conservation districts are authorized to provide technical and financial assistance to the authority or in connection with the soil conservation loan program to assure the success of this program.

d. The amount of financing that may be provided under the soil conservation loan program shall not exceed the cost of implementing the permanent soil and water conservation practice or of acquiring the conservation farm equipment which the owner or operator is seeking to implement or acquire less any amounts the owner or operator will receive in public cost-sharing funds under chapter 467A or other provisions of state or federal law for the implementation or acquisition. However, the maximum amount of loans that an owner or operator may receive pursuant to this program shall not exceed fifty thousand dollars for permanent soil and water conservation practices and fifty thousand dollars for conservation farm equipment.

e. If a cooperator of a soil conservation district qualifies for cost sharing under a state soil conservation cost share program, the cooperator is eligible for a loan request. In granting these requests the authority shall give preference to those with the lower net worths.

3. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. Bonds and notes must be authorized by a resolution of the authority. However, the authority shall not have a total principal amount of bonds and notes outstanding under this section at any time in excess of twenty-five percent of the limitation on the amount of bonds and notes at any time specified in section 175.17, subsection 1. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and investments thereon may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the owner or operator of the agricultural land.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained therein, the payment or performance may be enforced in accordance with the provisions contained therein.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

4. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest are limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the owner or operator of the agricultural land, and that the principal and interest do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section

175.12, section 175.17, subsection 9 and section 175.19, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

(83 Acts, ch 93, § 2) HF 518

Subsection 2, paragraph d amended

CHAPTER 176A

COUNTY AGRICULTURAL EXTENSION LAW

176A.8 Powers and duties of county agricultural extension council.

The extension councils of each extension district of the state shall have, exercise, and perform the following powers and duties:

1. To elect from their own number annually in January a chairman, vice chairman, secretary and a treasurer who shall serve and be the officers of the extension council for a term expiring December 31 each year, and perform the functions and duties as herein in this chapter provided.

2. To and shall each year at the meeting at which the date, time, and place of the holding of township election meetings is fixed and determined, appoint from their own number one member whose term does not expire as of December 31 following said meeting to act as temporary chairman of the first meeting of the extension council to be held in January following his appointment, and one to act as temporary secretary of said extension council meeting.

3. To serve as an agency of the state and to manage and transact all of the business and affairs of its district and have control of all of the property acquired by it and necessary for the conduct of the business of the district for the purposes of this chapter.

4. To and shall fix the date, time and place in each of the townships of the extension district for the holding of township election meetings during the period provided for the holding of them for the election of members of the extension council, and call the township election meetings in each of the townships of the extension district for the election of the members of the extension council and cause notice of said election to be published once at least one week but not more than three weeks prior to the date fixed for the holding of such meetings in a newspaper having general circulation in each extension district, and the cost of publishing said notice shall be paid by the extension council. The township election meeting to elect a member of the extension council from the township may, by designation of the extension council, be held in another township of that county, provided that the extension council may not designate that over four such township elections may be combined into one election. All the provisions of this chapter referring to township election meetings in the townships shall apply equally to the election meetings held at such other place in the county.

5. To and shall prior to the date of the holding of a township election meeting, designate two resident qualified voters in each of the several townships in which an election meeting is to be held, one to act as chairman, one to act as secretary of said meeting, which said meeting shall be conducted in accordance with Robert's Rules of Order. The minutes of each township election meeting shall be recorded by the secretary, signed and certified by the chairman and secretary and delivered by the secretary to the office of the extension council of the several extension districts on or before the date fixed for the next meeting of the extension council.

6. To and shall prior to the date fixed for the holding of the election meetings in the several townships of the district, appoint in each of the townships in which a township election meeting is to be held a nominating committee consisting of three members and designate the chairman thereof, which nominating committee shall nominate at least two resident qualified voters as candidates for election to member-

ship in the extension council, which committee shall certify the names of the nominees and deliver said certificate to the person designated as chairman of the township election meeting on or before the date fixed for the holding thereof.

7. To enter into a Memorandum of Understanding with the extension service setting forth the co-operative relationship between the extension service and the extension district.

8. To employ all necessary extension professional personnel from qualified nominees furnished to it and recommended by the director of extension and not to terminate the employment of any such without first conferring with the director of extension, and to employ such other personnel as it shall determine necessary for the conduct of the business of the extension district, and to fix the compensation for all such personnel in co-operation with the extension service and in accordance with the Memorandum of Understanding entered into with such extension service.

9. To prepare annually on or before January 31 a budget for the fiscal year beginning July 1 and ending the following June 30, in accordance with the provisions of chapter 24 and certify the same to the board of supervisors of the county of their extension district as required by law.

10. To and shall be responsible for the preparation and adoption of the educational program on extension work in agriculture, home economics and 4-H club work, and periodically review said program and for the carrying out of the same in co-operation with the extension service in accordance with the Memorandum of Understanding with said extension service.

11. To make and adopt such rules not inconsistent with the law as it may deem necessary for its own government and the transaction of the business of the extension district.

12. To fill all vacancies in its membership to serve for the unexpired term of the member creating such vacancy by electing a resident qualified voter from the township of the residence of the member creating such vacancy. If for any reason a township election meeting is not held pursuant to call and published notice and no one is elected from said township as a member of the extension council of the district, there shall be a vacancy in such membership on the extension council.

13. To and shall, as soon as possible following the meeting at which the officers are elected, file in the office of the board of supervisors and of the county treasurer a certificate signed by its chairman and secretary certifying the names, addresses and terms of office of each member, and the names and addresses of the officers of the extension council with the signatures of the officers affixed thereto, and said certificate shall be conclusive as to the organization of the extension district, its extension council, and as to its members and its officers.

14. To and shall deposit all funds received from the "county agricultural extension education fund" in a bank or banks approved by it in the name of the extension district. These receipts shall constitute a fund known as the "county agricultural extension education fund" which shall be disbursed by the treasurer of the extension council on vouchers signed by its chairman and secretary and approved by the extension council and recorded in its minutes.

15. To expend the "county agricultural extension education fund" for salaries and travel, expense of personnel, rental, office supplies, equipment, communications, office facilities and services, and in payment of such other items as shall be necessary to carry out the extension district program; provided, however, it shall be unlawful for the county agricultural extension council to lease any office space which is occupied or used by any other farm organization or farm co-operative, and provided further, that it shall be lawful for the county agricultural extension council to lease space in a building owned or occupied by a farm organization or farm co-operative.

16. To carry over unexpended county agricultural extension education funds into the next year so that funds will be available to carry on the program until such time as moneys received from taxes are collected by the county treasurer. However, the

unencumbered funds in the county agricultural extension education fund in excess of one-half the amount expended from the fund in the previous year shall be paid over to the county treasurer. The treasurer of the extension council with the approval of the council may invest agricultural extension education funds retained by the council and not needed for current expenses in the manner authorized for treasurers of political subdivisions under section 453.1.

17. To file with the county auditor and to publish in two newspapers of general circulation in the district before August 1 full and detailed reports under oath of all receipts, from whatever source derived, and expenditures of such county agricultural extension education fund showing from whom received, to whom paid and for what purpose for the last fiscal year.

(83 Acts, ch 123, § 77, 209) HF 628
Subsection 16 amended

176A.12 County agricultural extension fund. A county agricultural extension education fund shall be established in each county and the county treasurer of each county shall keep the amount of tax levied under this chapter in that fund. Before the fifteenth day of each month, the treasurer shall notify the chairperson of the county extension council of the amount collected for this fund to the first day of that month, and the chairperson shall draw a draft for that amount, countersigned by the secretary, upon the treasurer who shall pay that amount to the treasurer of the extension council upon receipt of the draft.

(83 Acts, ch 123, § 78, 209) HF 628
NEW section

CHAPTER 185

SOYBEAN PROMOTION BOARD

185.1 Definitions. As used in this chapter:

1. "*Secretary*" means the secretary of agriculture.
2. "*Board*" means the Iowa soybean promotion board established by this chapter.
3. "*Promotional order*" means an order administered pursuant to this chapter which establishes a program for the promotion, research and market development of soybeans and provides for an assessment to finance the program.
4. "*Market development*" means to engage in research and educational programs directed toward better and more efficient utilization of soybeans; to provide methods and means, including but not limited to, public relations and other promotion techniques for the maintenance of present markets; to provide for the development of new or larger domestic and foreign markets; and to provide for the prevention, modification, or elimination of trade barriers which obstruct the free flow of soybeans.
5. "*Producer*" means any individual, firm, corporation, partnership, or association engaged in this state in the business of producing and marketing in their name at least two hundred fifty bushels of soybeans in the previous marketing year.
6. "*First purchaser*" means a person, public or private corporation, governmental subdivision, association, co-operative, partnership, commercial buyer, dealer, or processor who purchases soybeans from a producer for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the soybeans purchased for the purchaser's personal consumption.
7. "*Marketing year*" means the twelve-month period beginning the first day of September and ending on the following thirty-first day of August.
8. "*District*" means an official crop reporting district formed by the United States department of agriculture and set out in the annual farm census published by the Iowa department of agriculture.
9. "*Soybeans*" means and includes all kinds of varieties of soybeans marketed or sold as soybeans by the producer.

10. "*Bushel*" means sixty pounds of soybeans by weight.
11. "*Assessment*" means an excise tax on each bushel of soybeans marketed in this state as provided in this chapter.
12. "*Marketed in this state*" refers to a sale of soybeans to a first purchaser who is a resident of or doing business in this state where actual delivery of the soybeans occurs in this state.
13. "*Sale*" or "*purchase*" includes but is not limited to the pledge or other encumbrance of soybeans as security for a loan extended under a federal price support loan program. Actual delivery of the soybeans occurs when the soybeans are pledged or otherwise encumbered to secure the loan. The purchase price of the soybeans is the principal amount of the loan extended and the purchase invoice for the soybeans is the documentation required for extension of the loan.

(83 Acts, ch 22, § 1, 2) SF 509

Subsection 6 amended

NEW subsection 13

CHAPTER 185C

CORN PROMOTION BOARD

185C.1 Definitions. As used in this chapter:

1. "*Secretary*" means the secretary of agriculture.
2. "*Board*" means the Iowa corn promotion board established by this chapter.
3. "*Promotional order*" means an order administered pursuant to this chapter which establishes a program for the promotion, research and market development of corn and provides for an assessment to finance the program.
4. "*Market development*" means to engage in research and educational programs directed toward better and more efficient utilization of corn; to provide methods and means, including but not limited to, public relations and other promotion techniques for the maintenance of present markets; to provide for the development of new or larger domestic and foreign markets; and to provide for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn.
5. "*Producer*" means any individual, firm, corporation, partnership, or association engaged in this state in the business of producing and marketing in their name at least two hundred fifty bushels of corn in the previous marketing year.
6. "*First purchaser*" means a person, public or private corporation, governmental subdivision, association, co-operative, partnership, commercial buyer, dealer, or processor who purchases corn from a producer for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the corn purchased for the purchaser's personal consumption.
7. "*Marketing year*" means the twelve-month period beginning the first day of September and ending on the following thirty-first day of August.
8. "*District*" means an official crop reporting district formed by the United States department of agriculture and set out in the annual farm census published by the Iowa department of agriculture.
9. "*Corn*" means and includes all kinds of varieties of corn marketed or sold as corn by the producer but shall not include sweet corn or popcorn or seed corn.
10. "*Bushel*" means fifty-six pounds of corn by weight.
11. "*Assessment*" means an excise tax on each bushel of corn marketed in this state as provided in this chapter.
12. "*Marketed in this state*" refers to a sale of corn to a first purchaser who is a resident of or doing business in this state where actual delivery of the corn occurs in this state.
13. "*Sale*" or "*purchase*" includes but is not limited to the pledge or other encumbrance of corn as security for a loan extended under a federal price support loan program. Actual delivery of the corn occurs when the corn is pledged or

otherwise encumbered to secure the loan. The purchase price of the corn is the principal amount of the loan extended and the purchase invoice for the corn is the documentation required for extension of the loan.

(83 Acts, ch 22, § 3, 4) SF 509
 Subsection 6 amended
 NEW subsection 13

CHAPTER 189

GENERAL PROVISIONS

189.2 Duties. The department of agriculture shall:

1. Execute and enforce the provisions of this title, except chapters 203, 203A, 204 and 205.
2. Make and publish all necessary rules, not inconsistent with law, for enforcing the provisions of this title.
3. Provide such educational measures and exhibits, and conduct such educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this title in accordance with the regulations herein prescribed.
4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this title. These bulletins shall be printed in such numbers as may be approved by the superintendent of printing and shall be distributed to the newspapers of the state and to all interested persons.

(83 Acts, ch 101, § 33) SF 136
 Subsection 4 amended

CHAPTER 189A

MEAT AND POULTRY INSPECTION

189A.17 Penalties.

1. Any person who violates any provisions of this chapter for which no other criminal penalty is provided shall be guilty of a simple misdemeanor; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in section 189A.2, subsection 15, paragraph "h" such person shall be guilty of a fraudulent practice.

2. Nothing in this chapter shall be construed as requiring the secretary to report, for the institution of legal proceedings, minor violations of this chapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

3. The secretary shall also have power:

a. To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons.

b. To require persons engaged in intrastate commerce to file with the secretary in such form as the secretary may prescribe, annual or special reports or answers in writing to specific questions, furnishing to the secretary such information as he may require as to the organization, business, conduct, practices, management, and relation to other persons of the person filing such reports or answers. Such reports and answers shall be made under oath, or otherwise as the secretary may prescribe, and shall be filed with the secretary within such reasonable period as the secretary may prescribe, unless additional time be granted in any case by the secretary.

4. a. For the purpose of this chapter the secretary may, at all reasonable times, examine and copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of

witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The secretary may sign subpoenas and administer oaths and affirmations, examine witnesses, and receive evidence.

b. Such attendance of witnesses, and the production of such documentary evidence may be required at any designated place of hearing. In case of disobedience to a subpoena the secretary may invoke the aid of the district court having jurisdiction over the matter in requiring the attendance and testimony of witnesses and the production of documentary evidence.

c. The district court may, in case of failure or refusal to obey a subpoena issued herein to any person, enter an order requiring such person to appear before the secretary or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey such order of the court may be punished by such court as contempt.

d. Upon the application of the attorney general of this state at the request of the secretary, the court shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any order of the secretary pursuant thereto.

e. The secretary may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the secretary as herein provided.

f. Witnesses summoned before the secretary shall be paid the same fees and mileage that are paid witnesses in the district court, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such district court.

g. No person shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the secretary or in obedience to the subpoena of the secretary, whether such subpoena be signed or issued by him or his delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this chapter for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

5. a. Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if it is in the person's power to do so, in obedience to the subpoena or lawful requirement of the secretary shall be guilty of a serious misdemeanor.

b. Any person who willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or who willfully neglects or fails to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the business of such person, or who willfully removes himself or herself from the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary

evidence of any person subject to this chapter or who willfully refuses to submit to the secretary or to any of the secretary's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in the person's possession or control, shall be deemed guilty of an aggravated misdemeanor.

c. If a person required by this chapter to file an annual or special report fails to do so within the time fixed by the secretary for filing it, and the failure continues for thirty days after notice of default, the person shall forfeit to this state the sum of one hundred dollars for each day of the continuance of the failure, which forfeiture is payable into the treasury of this state, and is recoverable in a civil suit in the name of the state brought in the district court of the county where the person has a principal office or in the district court of any county in which the person does business. The county attorneys shall prosecute for the recovery of such forfeitures.

d. Any officer or employee of this state who makes public any information obtained by the secretary, without the secretary's authority, unless directed by a court, or uses any such information to the officer's or employee's advantage, shall be deemed guilty of a serious misdemeanor.

The requirements of this chapter shall apply to persons, establishments, animals, and articles regulated under the federal Meat Inspection Act or the federal Poultry Products Inspection Act to the extent provided for in said federal Acts and also to the extent provided in this chapter and in regulations the secretary may prescribe to promulgate this chapter.

(83 Acts, ch 123, § 79, 209) HF 628
Subsection 5, paragraph c amended

CHAPTER 198

COMMERCIAL FEED

198.9 Inspection fees and reports.

1. An inspection fee to be fixed annually by the secretary, at the rate of no more than twelve cents per ton shall be paid on commercial feeds distributed in this state, by the person who distributes the commercial feed to the consumer, subject to the following:

a. A fee shall not be paid on a commercial feed if the payment has been made by a previous distributor.

b. A fee shall not be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

c. A fee shall not be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.

d. In the case of a commercial feed which is distributed in the state only in packages of ten pounds or less, an annual fee of twenty-five dollars, shall be paid in lieu of the inspection fee specified above.

e. The minimum inspection fee shall be a semiannual fee of ten dollars.

f. In the case of specialty pet food, which is distributed in the state in packages of one pound or less, an annual fee of twenty-five dollars shall be paid in lieu of an inspection fee.

2. Each person who is liable for the payment of such fee shall:

a. File, not later than the last day of January and July of each year a semiannual statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding six months and upon filing such statement shall pay the inspection fee at the rate stated in subsection 1. Inspection fees which are due and owing and have not been remitted to the secretary within fifteen days following the due date shall have a delinquency fee of ten percent or five dollars, whichever

is greater, added to the amount due when payment is finally made. The assessment of this delinquency fee shall not prevent the department from taking other actions as provided in this chapter.

b. Keep such records as may be necessary or required by the secretary to indicate accurately the tonnage of commercial feed distributed in this state, and the secretary shall have the right to examine such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

3. Fees collected shall constitute a fund for the payment of the costs of inspection, sampling, analysis, supportive research and other expenses necessary for the administration of this chapter.

If there is an unencumbered balance of funds in the commercial feed fund on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 for the next fiscal year in such amount as will result in an ending estimated balance for June 30 of the next fiscal year of three hundred fifty thousand dollars.

(83 Acts, ch 122, § 1) SF 500

Subsection 1, unnumbered paragraph 1 amended

CHAPTER 204

UNIFORM CONTROLLED SUBSTANCES (DRUGS)

204.502 Administrative inspections and warrants.

1. Issuance and execution of administrative inspection warrants shall be as follows:

a. A district judge or district associate judge, within the court's jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections under this chapter or a related rule or under chapter 204A. The warrant may also permit seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of the statute or related rules, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

b. A warrant shall issue only upon sworn testimony of an officer or employee of the board duly designated and having knowledge of the facts alleged, before the judicial officer, establishing the grounds for issuing the warrant. If the judicial officer is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the officer shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any.

The warrant shall:

(1) State the grounds for its issuance and the name of each person whose testimony has been taken in support thereof.

(2) Be directed to a person authorized by section 204.501 to execute it.

(3) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(4) Identify the item or types of property to be seized, if any.

(5) Direct that it be served during normal business hours, if appropriate, and designate the judge to whom it shall be returned.

c. A warrant issued pursuant to this section must be executed and returned

within ten days after its date unless, upon a showing of a need for additional time, the court so instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a copy of the warrant and a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was seized the applicant for the warrant.

d. The judicial officer who has issued a warrant under this section shall require that there be attached to the warrant a copy of the return, and of all papers filed in connection with the return, and shall file them with the clerk of the district court for the county in which the inspection was made.

2. The department may make administrative inspections of controlled premises in accordance with the following provisions:

a. For purposes of this section only, "controlled premises" means:

(1) Places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(2) Places including factories, warehouse establishments, and conveyances where persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

b. Whenever authorized by an administrative inspection warrant issued pursuant to subsection 1 of this section an officer or employee of the board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

c. Whenever authorized by an administrative inspection warrant, an officer or employee of the board has the right:

(1) To inspect and copy records required by this chapter to be kept;

(2) To inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph "e" of this subsection, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(3) To inventory any stock of any controlled substance therein and obtain samples of any such substance.

d. This section shall not be construed to prevent the inspection without a warrant of books and records pursuant to a subpoena issued in accordance with section 622.65, nor shall this section be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator, or agent in charge of the controlled premises;

(2) In situations presenting imminent danger to health or safety;

(3) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(5) In all other situations where a warrant is not constitutionally required.

e. Except when the owner, operator, or agent in charge of the controlled premises

so consents in writing, no inspection authorized by this section shall extend to financial data; sales data, other than shipment data; or pricing data.

(83 Acts, ch 186, § 10051, 10052, 10201) SF 495

Subsection 1, paragraph b, unnumbered paragraph 1, and paragraph d amended

CHAPTER 206

PESTICIDES

206.2 Definitions. When used in this chapter:

1. The term "*pesticide*" shall mean (a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating directly or indirectly any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man, which the secretary shall declare to be a pest, and (b) any substances intended for use as a plant growth regulator, defoliant or desiccant.

2. The term "*device*" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects, birds, or rodents or destroying, repelling, or mitigating fungi, nematodes, weeds or such other pests as may be designated by the secretary, but not including equipment used for the application of pesticides when sold separately therefrom.

3. The term "*plant growth regulator*" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

4. The term "*ingredient statement*" means either:

a. A statement of the name and percentage by weight of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

b. When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

5. The term "*active ingredient*" means:

a. In the case of a pesticide other than a plant growth regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.

b. In the case of a plant growth regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof.

c. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

d. In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

6. The term "*inert ingredient*" means an ingredient which is not an active ingredient.

7. The term "*antidote*" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

8. The term "*person*" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

9. The term "*department*" shall mean the Iowa department of agriculture.

10. The term "*secretary*" means the secretary of the Iowa department of agriculture.

11. The term "*registrant*" means the person registering any pesticide or device or who has obtained a certificate of license from the department pursuant to the provisions of this chapter.

12. The term "*commercial applicator*" shall mean any person or corporation who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying any pesticide or servicing any device but shall not include a farmer trading work with another.

13. The term "*label*" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide or device.

14. The term "*labeling*" means all labels and other written, printed or graphic matter:

- a. Upon the pesticide or device or any of its containers or wrappers.
- b. Accompanying the pesticide or device at any time.
- c. To which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, nonmisleading reference is made to current official publications of the United States department of agriculture or interior, the United States public health service, the state agricultural experiment stations, the Iowa State University, the Iowa department of public health, the state conservation commission, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

15. The term "*adulterated*" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

16. The term "*misbranded*" shall apply:

a. To any pesticide or device if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

b. To any pesticide:

(1) If it is an imitation of or is offered for sale under the name of another pesticide.

(2) If its labeling bears any reference to registration under this chapter, when not so registered.

(3) If the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public.

(4) If the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals.

(5) If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there is to be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase.

(6) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or graphic matter in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(7) If in the case of an insecticide, nematocide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such pesticide.

(8) If in the case of a plant growth regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or

vegetation to which it is applied, or to the person applying such pesticide; provided, that physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant growth regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

17. "*Certified applicator*" means any individual who is certified under this chapter as authorized to use or supervise the use of any pesticide which is classified for restricted use.

18. "*Certified private applicator*" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

19. "*Certified commercial applicator*" means a pesticide applicator or individual who applies or uses a restricted use pesticide or device for the purpose of producing any agricultural commodity or on any property of another for compensation.

20. "*Public applicator*" means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency. This term does not include employees who work only under the direct supervision of a public applicator.

21. The term "*distribute*" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

22. The term "*hazard*" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

23. The term "*permit*" means a written certificate, issued by the secretary or the secretary's agent under rules adopted by the department authorizing the use of certain state restricted use pesticides.

24. The term "*pesticide dealer*" means any person who distributes any restricted use pesticides which, by regulation, are restricted to application only by certified applicators.

25. The term "*restricted use pesticide*" means any pesticide restricted as to use by rule of the secretary as adopted under section 206.20.

26. "*State restricted use pesticide*" means a pesticide which is restricted for sale, use, or distribution under section 455B.471.

27. The term "*under the direct supervision of*" means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator or a state licensed commercial applicator who is available if and when needed, even though such certified applicator is not physically present at the time place the pesticide is applied.

28. The term "*unreasonable adverse effects on the environment*" means any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.

(83 Acts, ch 101, § 34) SF 136
Subsection 26 amended

206.6 License for commercial applicators.

1. *Commercial applicator.* No person shall engage in the business of applying pesticides to the lands or property of another at any time without being licensed by the secretary. The secretary shall require an annual license fee of not more than twenty-five dollars for each license. Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, license classification or classifications for which the applicant is applying.

A person who applies pesticides by use of an aircraft and who is licensed as an

aerial commercial applicator in another state shall apply pesticides in Iowa only under the direct supervision of a person holding a valid Iowa aerial commercial applicator's license. The supervising aerial commercial applicator is jointly liable with the person who is licensed as an aerial commercial applicator in another state for damages. The supervising applicator shall immediately notify the secretary of the commencement and of the termination of service provided by the supervised applicator. However, a person licensed in another state as an aerial commercial applicator may operate independently if the person acquires an aerial commercial applicator license from the secretary, posts bond in an amount to be determined by the secretary, and registers with the department of transportation. The person is liable for damages.

2. *Nonresident applicator.* Any nonresident applying for a license under this chapter to operate in the state shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be so prepared and in such form as to render effective the jurisdiction of the courts of this state over such nonresident applicants. A nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees as provided by law for designating resident agents. The secretary shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be certified by the secretary of state.

3. *Examination for commercial applicator license.* The secretary shall not issue a commercial applicator license until the individual engaged in or managing the pesticide application business is qualified by passing an examination to demonstrate to the secretary his knowledge of how to apply pesticides under the classifications he has applied for, and his knowledge of the nature and effect of pesticides he may apply under such classifications. The applicant successfully completing this examination requirement shall be a licensed commercial applicator.

4. *Renewal of applicant's license.* The secretary shall renew any applicant's license under the classifications for which such applicant is licensed, provided that a program of training of all personnel who apply pesticides has been established and maintained by the licensee. Such a program may include attending training sessions such as co-operative extension short courses or industry trade association training seminars.

5. *Issue commercial applicator license.* If the secretary finds the applicant qualified to apply pesticides in the classifications for which the applicant has applied and if the applicant files the bonds or insurance required under section 206.13, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the federal aviation administration, the department of transportation, and any other applicable federal or state laws or regulations to operate the equipment described in the application, the secretary shall issue a commercial applicator license limited to the classifications for which the applicant is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the secretary for cause. The secretary may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons.

6. *Public applicator.*

a. All state agencies, counties, municipal corporations, and any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides.

b. Public applicators for agencies listed in this subsection shall be subject to

examinations as provided for in this section, however, the secretary shall issue a limited license without a fee to such public applicator who has qualified for such license. The public applicator license shall be valid only when such applicator is acting as an applicator applying or supervising the application of pesticides used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides only to experimental plots. Individuals licensed pursuant to this section shall be licensed public applicators.

c. Such agencies and municipal corporations shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

(83 Acts, ch 101, § 35, 36) SF 136

Subsection 1, unnumbered paragraph 2, and subsection 5 amended

CHAPTER 216

IOWA STATE INDUSTRIES

216.2 Definitions. As used in this chapter:

1. "*Industries board*" means the state prison industries advisory board.
2. "*Iowa state industries*" means prison industries that are established and maintained by the Iowa department of corrections, in consultation with the industries board, at or adjacent to the state's adult correctional institutions, except that an inmate employment program established by the state director under section 216.5, subsection 7 is not restricted to industries at or adjacent to the institutions.
3. "*State director*" means the director of the Iowa department of corrections, or the director's designee.

(83 Acts, ch 96, § 61, 159) SF 464

Effective October 1, 1983

Subsections 2 and 3 amended

216.8 Purchase of products.

1. A product possessing the performance characteristics of a product listed in the price lists prepared pursuant to section 216.7 shall not be purchased by any department or agency of state government from a source other than Iowa state industries, except:

a. When the purchase is made under emergency circumstances, which shall be explained in writing by the public body or officer who made or authorized the purchase if the state director so requests; or

b. When the state director releases, in writing, the obligation of the department or agency to purchase the product from Iowa state industries, after determining that Iowa state industries is unable to meet the performance characteristics of the purchase request for the product, and a copy of the release is attached to the request to the state comptroller for payment for a similar product, or when Iowa state industries is unable to furnish needed products, comparable in both quality and price to those available from alternative sources, within a reasonable length of time. Any disputes arising between a purchasing department or agency and Iowa state industries regarding similarity of products, or comparability of quality or price, or the availability of the product shall be referred to the director of the department of general services, whose decision shall be subject to appeal as provided in section 18.7.

2. The state director shall adopt and update as necessary rules setting specific delivery schedules for each of the products manufactured by Iowa state industries. These delivery schedules shall not apply where a different delivery schedule is specifically negotiated by Iowa state industries and a particular purchaser.

3. A department or agency of the state shall cooperate and enter into agreements, if possible, for the provision of products and services under an inmate employment program established by the state director under section 216.5, subsection 7.

(83 Acts, ch 203, § 14) SF 532

Subsection 1, unnumbered paragraph 1 and paragraph b amended

216.9 Industries revolving fund — uses.

1. There is established in the treasury of the state a permanent Iowa state industries revolving fund. This revolving fund shall be created by the transfer thereto of all moneys in the revolving fund formerly established under section 246.26 as that section appeared in the Code of 1977 and prior editions, and shall be maintained by depositing therein all receipts from the sale of products manufactured by Iowa state industries, and from sale of any property of Iowa state industries found by the state director to be obsolete or unneeded.

2. The Iowa state industries revolving fund shall be used only for the following purposes:

a. Establishment, maintenance, transfer or closure of industrial operations, or vocational, technical and related training facilities and services for inmates as authorized by the state director in consultation with the industries board.

b. Payment of all costs incurred by the industries board, including but not limited to per diem and expenses of its members, and of salaries, support and maintenance of Iowa state industries. Payments from the revolving fund authorized by this subsection shall be made in the same manner as payments from appropriations for salaries, support and maintenance of the institutions under the jurisdiction of the state director.

3. The Iowa state industries revolving fund shall not be used for the operation of farms at any adult correctional institution unless such farms are operated directly by Iowa state industries.

4. The fund established by this section shall not revert to the general fund of the state at the end of any annual or biennial period and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

(83 Acts, ch 203, § 15) SF 532

Subsection 4 amended

(83 Acts, ch 96, § 62, 159) SF 464

Effective October 1, 1983

Subsection 4 amended; identical amendments

CHAPTER 217

DEPARTMENT OF HUMAN SERVICES

Department name changed; 83 Acts, ch 96, § 157, 159 (SF 464)

(Chapter title changed)

217.1 Programs of Department. There is established a department of human services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child, and adult welfare, economic assistance including costs of medical care, rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of juvenile offenders, care and treatment of the mentally ill and mentally retarded, and other related programs as provided by law.

(83 Acts, ch 96, § 63, 159) SF 464

Effective October 1, 1983

Amended

217.2 Council on human services. There is created within the department of human services a council on human services which shall act in a policy-making and advisory capacity on matters within the jurisdiction of the department. The council shall consist of seven members appointed by the governor subject to confirma-

tion by the senate. Appointments shall be made on the basis of interest in public affairs, good judgment, and knowledge and ability in the field of human services. Appointments shall be made to provide a diversity of interest and point of view in the membership and without regard to religious opinions or affiliations. Members of the council shall serve for six-year staggered terms.

Each term shall commence and end as provided by section 69.19.

All members of the council shall be electors of the state of Iowa. No more than four members shall belong to the same political party and no more than two members shall, at the time of appointment, reside in the same congressional district. At least one member of the council shall be a member of a county board of supervisors at the time of appointment to the council. Vacancies occurring during a term of office shall be filled in the same manner as the original appointment for the balance of the unexpired term subject to confirmation by the senate.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

217.3 Duties of council. The council of human services shall:

1. Organize annually and select a chairman and vice chairman.
2. Adopt and establish policy for the operation and conduct of the department of human services, subject to any guidelines which may be adopted by the general assembly, and the implementation of all services and programs thereunder.
3. Report immediately to the governor any failure by the commissioner or any director of the department of human services to carry out any of the policy decisions or directives of the council.
4. Approve the budget of the department of human services prior to submission to the governor.
5. Insure that all programs administered or services rendered by the department directly to any citizen or through a local board of welfare to any citizen are co-ordinated and integrated so that any citizen does not receive a duplication of services from various departments or local agencies that could be rendered by one department or local agency. If the council finds that such is not the case, it shall hear and determine which department or local agency shall provide the needed service or services and enter an order of their determination by resolution of the council which must be concurred in by at least a majority of the members. Thereafter such order or resolution of the council shall be obeyed by all state departments and local agencies to which it is directed.
6. Adopt all necessary rules recommended by the commissioner or directors of divisions hereinafter established prior to their promulgation pursuant to chapter 17A.
7. Approve the establishment of any new division or reorganization, consolidation or abolition of any established division prior to the same becoming effective.
8. Recommend to the governor the names of individuals qualified for the position of commissioner of human services when a vacancy exists in the office.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 and subsections 2, 3, 4 and 8 amended

217.5 Commissioner of human services. There shall be a commissioner of human services who shall be the chief administrative officer for the department of human services. The commissioner shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The governor shall fill a vacancy in this office in the same manner as the original appointment was made. Such commissioner shall be selected primarily for administrative ability.

The commissioner shall not be selected on the basis of political affiliation and shall not engage in political activity while holding this position.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

217.6 Rules and regulations. The commissioner is hereby authorized to recommend to the council for adoption such rules and regulations as are necessary to carry into practice the programs of the various divisions and to establish such divisions and to assign or reassign duties, powers, and responsibilities within his department, all with the approval of the council of human services, within his department as he deems necessary and appropriate for the proper administration of the duties, functions and programs with which the department is charged. Any action taken, decision made, or administrative rule adopted by any director of a division may be reviewed by the commissioner. The commissioner, upon such review, may affirm, modify, or reverse any such action, decision, or rule. The commissioner shall organize the department of human services into divisions to carry out in efficient manner the intent of this chapter.

The department of human services may be initially divided into the following divisions of responsibility: The division of child and family services, the division of mental health, mental retardation, and developmental disabilities, the division of administration, and the division of planning, research and statistics.

(83 Acts, ch 96, § 64, 159) SF 464

Effective October 1, 1983

See also 83 Acts, ch 201, § 12 (HF 641)

Unnumbered paragraph 2 amended

217.13 Director of division of corrections. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

217.14 Additional powers and duties. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

217.16 Co-operation with other divisions. The director of the division of administration shall co-operate with the directors of the other divisions of the department of human services, assist them and the commissioner of the department in the preparation of their and his annual budgets and such other like reports as may be requested by the commissioner or required by law.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

217.17 Director of division of planning. The director of the division of planning, research and statistics shall be qualified in the general field of governmental planning with special training and experience in the areas of preparation and development of plans for future efficient reorganization and administration of government social functions. The director of the division of planning, research and statistics shall co-operate with the directors of the other divisions of the department of human services assisting them and the commissioner of the department in their planning, research and statistical problems. The director of the division of planning, research and statistics shall assist the directors, commissioner and the council of human services by proposing administrative and organizational changes at both the state and local level to provide more efficient and integrated social services to the citizens of this state. The planning, research and statistical operations now forming an integral part of the present state functions assigned to the directors of this department along with their future needs in this regard are all assigned to and shall be administered by the director of this division.

(83 Acts, ch 96, § 65, 159) SF 464

Effective October 1, 1983

Amended

217.18 Official seal. The department shall have an official seal with the words "Iowa Department of Human Services" and such other design as the department prescribes engraved thereon. Every commission, order or other paper of an official nature executed by the department may be attested with such seal.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

217.21 Annual report. The department shall, annually, at the time provided by law make a report to the governor and general assembly, and cover therein the annual period ending with June 30 preceding, which report shall embrace:

1. An itemized statement of its expenditures concerning each program under its administration.

2. Adequate and complete statistical reports for the state as a whole concerning all payments made under its administration.

3. Such recommendations as to changes in laws under its administration as the commissioner may deem necessary.

4. The observations and recommendations of the commissioner and the council of human services relative to the programs of the department.

5. Such other information as the commissioner or council of human services may deem advisable, or which may be requested by the governor or by the general assembly.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 4 and 5 amended

217.22 Transfer hearing. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)
Effective October 1, 1983

217.23 Personnel — merit system — reimbursement for damaged property.

Exception for reimbursement to employees for damaged property; 83 Acts, ch 203, § 11 (SF 532)

217.32 Office space in county. Where the department of human services assigns personnel to an office located in a county for the purpose of performing in that county designated duties and responsibilities assigned by law to the department, it shall be the responsibility of the county to provide and maintain the necessary office space and office supplies and equipment for the personnel so assigned in the same manner as if they were employees of the county. The department shall at least annually, or more frequently if the department so elects, reimburse the county for a portion, designated by law, of the cost of maintaining office space and providing supplies and equipment as required by this section, and also for a similar portion of the cost of providing the necessary office space if in order to do so it is necessary for the county to lease office space outside the courthouse or any other building owned by the county. The portion of the foregoing costs reimbursed to the county under this section shall be equivalent to the proportion of those costs which the federal government authorizes to be paid from available federal funds, unless the general assembly directs otherwise when appropriating funds for support of the department.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

217.33 Legal services. The commissioner of human services pursuant to a state plan funded in part by the federal government may provide services for eligible persons by contract with nonprofit legal aid organizations.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

217.34 Office of investigations. The office of investigations shall provide assistance to set off against a person's income tax refund or rebate any debt which has accrued through written contract, subrogation, departmental recoupment procedures, or court judgment and which is in the form of a liquidated sum due and owing the department of human services. The department of human services shall adopt rules under chapter 17A necessary to assist the department of revenue in the implementation of the setoff under section 421.17, subsection 21.

(83 Acts, ch 153, § 2) SF 541

NEW section

(83 Acts, ch 96, § 160) SF 464

Amended

217.37 Rules for spouse's support. It is the intent of the general assembly that the department of human services shall promulgate rules pursuant to chapter 17A so that the noninstitutionalized spouse's support of persons receiving medical assistance shall be based on a case-by-case factual determination of the amount of money available for such support.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 217A

IOWA DEPARTMENT OF CORRECTIONS

Effective October 1, 1983

NEW chapter

217A.1 Definitions. For purposes of this chapter, unless the context otherwise requires:

1. "*Department*" means the Iowa department of corrections established in section 217A.2.
2. "*Board*" means the board of corrections established in section 217A.4.
3. "*Director*" means the director of the department.

(83 Acts, ch 96, § 2, 159) SF 464

Effective October 1, 1983

NEW section

217A.2 Department established. The Iowa department of corrections is established to be responsible for the control, treatment, and rehabilitation of offenders committed under law to the following institutions:

1. Iowa correctional institution for women.
2. Iowa state men's reformatory.
3. Iowa state penitentiary.
4. Iowa security and medical facility.
5. North central correctional facility.
6. Mount Pleasant correctional facility.
7. Clarinda correctional treatment facility.
8. Correctional release center.
9. Rehabilitation camps.
10. Other institutions related to an institution in subsections 1 through 9 but not attached to the campus of the main institution as program developments require.

(83 Acts, ch 96, § 3, 159) SF 464

Effective October 1, 1983

Department to contract with department of human services for food supply; 83 Acts, ch 96, § 159 (SF 464)

NEW section

217A.3 Responsibilities of department. The department shall administer the institutions listed in section 217A.2. The department shall be responsible to the extent provided for by law for all of the following:

1. Accreditation and funding of community-based corrections programs including but not limited to pretrial release, probation, residential facilities, presentence investigation, parole, and work release.

2. Iowa state industries.

3. Jail inspections.

4. Other duties provided for by law.

(83 Acts, ch 96, § 4, 159) SF 464

Effective October 1, 1983

Subsection 1 duties to be performed until July 1, 1984

NEW section

217A.4 Board created. A board of corrections is created within the department. The board shall consist of seven members appointed by the governor subject to confirmation by the senate. Not more than four of the members shall be from the same political party. Members shall be electors of this state. Six of the seven members shall each be a resident of a different congressional district. Members of the board shall serve four-year staggered terms.

(83 Acts, ch 96, § 5, 158, 159) SF 464

Effective October 1, 1983

Staggered terms for initial members; 83 Acts, ch 96, § 158 (SF 464)

NEW section

217A.5 Board — duties. The board of corrections shall:

1. Organize annually and select a chairperson and vice chairperson.

2. Adopt and establish policies for the operation and conduct of the department and the implementation of all department programs.

3. Recommend to the governor the names of individuals qualified for the position of director when a vacancy exists in the office.

4. Report immediately to the governor any failure by the director of the department to carry out any of the policy decisions or directives of the board.

5. Approve the budget of the department prior to submission to the governor.

6. Adopt rules in accordance with chapter 17A as the board deems necessary to transact its business and for the administration and exercise of its powers and duties.

7. Make recommendations from time to time to the governor and the general assembly.

8. Perform other functions as provided by law.

(83 Acts, ch 96, § 6, 159) SF 464

Effective October 1, 1983

Board to form July 1, 1983; department of human services to provide staffing and support; 83 Acts, ch 96, § 158, 159 (SF 464)

NEW section

217A.6 Meetings. The board shall meet at least twelve times a year. Special meetings may be called by the chairperson or upon written request of any three members of the board. The chairperson shall preside at all meetings or in the chairperson's absence, the vice chairperson shall preside. The members of the board shall be paid forty dollars per diem while in session, and their reasonable and necessary expenses while attending the meetings.

(83 Acts, ch 96, § 7, 159) SF 464

Effective October 1, 1983

NEW section

217A.7 Director — appointment and qualifications. The chief administrative officer for the department is the director. The director shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The director shall be qualified in reformatory and prison management, knowledgeable in community-based corrections, and shall possess administrative ability. The director shall also have experience in the field of criminology and discipline and in the supervision of inmates in corrective penal institutions. The

director shall not be selected on the basis of political affiliation, and while employed as the director, shall not be a member of a political committee, participate in a political campaign, be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the director may designate on the checkoff portion of the state or federal income tax return, or both, a party or parties to which a contribution is made pursuant to the checkoff. The director shall not hold any other office under the laws of the United States or of this or any state or hold any position for profit and shall devote full time to the duties of office.

(83 Acts, ch 96, § 8, 159) SF 464

Effective October 1, 1983

Acting director to be appointed as soon as practicable after July 1, 1983; to employ transition team; 83 Acts, ch 96, § 159 (SF 464)

NEW section

217A.8 Director — general duties and responsibilities.

1. The director shall:

a. Supervise the operations of the institutions under the department's jurisdiction and may delegate the powers and authorities given the director by statute to officers or employees of the department.

b. Supervise state agents whose duties relate primarily to the department.

c. Establish and maintain a program to oversee women's institutional and community corrections programs and to provide community support to ensure continuity and consistency of programs. The person responsible for implementing this section shall report to the director.

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for mentally retarded offenders. For the purposes of this paragraph, habilitative services and treatment means medical, mental health, social, educational, counseling, and other services which will assist a mentally retarded person to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the correctional system who are mentally retarded, as defined in section 222.2, subsection 5. Identification shall be made by a qualified mental retardation professional. In assigning a mentally retarded offender, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the director shall consider both the program needs and the security needs of the offender. The director shall consult with the department of human services in providing habilitative services and treatment to mentally ill and mentally retarded offenders.

e. Employ, assign, and reassign personnel as necessary for the performance of duties and responsibilities assigned to the department. Employees shall be selected on the basis of fitness for work to be performed with due regard to training and experience and are subject to chapter 19A.

f. Examine all state institutions which are penal, reformatory, or corrective to determine their efficiency for adequate care, custody, and training of their inmates and report the findings to the board.

g. Prepare a budget for the department, subject to the approval of the board, and other reports as required by law.

h. Develop long-range correctional planning and an on-going five-year corrections master plan. The director shall annually report to the general assembly to inform its members as to the status and content of the planning and master plan.

i. Supervise rehabilitation camps within the state as may be established by the director. Persons committed to institutions under the department may be transferred to the facilities of the camp system and upon transfer shall be subject to the same laws as pertain to the transferring institution.

j. Adopt rules subject to the approval of the board, pertaining to the internal management of institutions and agencies under the director's charge and necessary to carry out the duties and powers outlined in this section.

k. Adopt rules, policies, and procedures, subject to the approval of the board, pertaining to the supervision of parole and work release.

2. The director, with the express approval of the board, may establish for any inmate sentenced pursuant to section 902.3 a furlough program under which inmates sentenced to and confined in any institution under the jurisdiction of the department may be temporarily released. A furlough for a period not to exceed fourteen days may be granted when an immediate member of an inmate's family is seriously ill or has died, when an inmate is to be interviewed by a prospective employer, or when an inmate is authorized to participate in a training program not available within the institution. Furloughs for a period not to exceed fourteen days may also be granted in order to allow inmates to participate in programs or activities that serve rehabilitative objectives.

3. The director may establish a sales bonus system for the sales representatives for prison industry products. If a sales bonus system is established, the system shall not affect the status of the sales representatives under chapter 19A.

4. The director may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. However, the reimbursement shall not exceed one hundred fifty dollars for each item. The director shall establish rules in accordance with chapter 17A to carry out the purpose of this subsection.

5. The director may obtain assistance for the department including construction, facility planning, data processing and project accomplishment, by contracting under chapter 28E with the department of human services or the department of general services.

(83 Acts, ch 96, § 9, 159) SF 464

Effective October 1, 1983

Acting director to assume duties; Iowa merit employment department to cooperate in initial personnel matters; personnel transfer provisions; 83 Acts, ch 96, § 159 (SF 464)

NEW section

217A.9 Official seal. The department shall have an official seal with the words "Iowa Department of Corrections" and other engraved design as the board prescribes. Every commission, order, or other paper of an official nature executed by the department may be attested with the seal.

(83 Acts, ch 96, § 10, 159) SF 464

Effective October 1, 1983

NEW section

217A.10 to 217A.15 Reserved.

217A.16 Travel expenses. The director, staff members, assistants, and employees, in addition to salary, shall receive their necessary traveling expenses by the nearest practicable route, when engaged in the performance of official business. Permission shall not be granted to any person to travel to another state except by approval of the board and the executive council.

(83 Acts, ch 96, § 11, 159) SF 464

Effective October 1, 1983

NEW section

217A.17 Report by department. Annually at the time provided by law, the department shall make a report to the governor and the general assembly, which shall cover the annual period ending with June thirtieth preceding the date of the report and shall include:

1. An itemized statement of the department's expenditures for each program under the department's administration.

2. Adequate and complete statistical reports for the state as a whole concerning payments made under the department's administration.

3. Recommendations concerning changes in laws under the department's administration as the board deems necessary.

4. Observations and recommendations of the board and the director relative to the programs of the department.

5. Information concerning long-range planning and the master plan as provided by section 217A.8, subsection 1, paragraph "h".

6. Other information the board or the director deems advisable, or which is requested by the governor or the general assembly.

(83 Acts, ch 96, § 12, 159) SF 464

Effective October 1, 1983

NEW section

217A.18 Confidentiality of records — report.

1. The following information regarding individuals receiving services from the department is confidential:

a. Names and addresses of individuals receiving services from the department, and the types of services or amounts of assistance provided, except as otherwise provided in subsection 4.

b. Information concerning the social or economic conditions or circumstances of particular individuals who are receiving or have received services or assistance from the department.

c. Agency evaluations of information about a particular individual.

d. Medical or psychiatric data, including diagnosis and past history of disease or disability, concerning a particular individual.

2. Information described in subsection 1 shall not be disclosed to or used by any person or agency except for purposes of administration of the department's programs of services or assistance and shall not, except as otherwise provided in subsection 4, be disclosed to or used by persons or agencies outside the department unless they are subject to standards of confidentiality comparable to those imposed on the department by this section.

3. This section does not restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by, and results of any program administered by the department, and other general and statistical information, so long as the information does not identify particular individuals served or assisted.

4. The general assembly finds and determines that the use and disclosure of information as provided in this subsection is for purposes directly connected with the administration of the programs of services and assistance referred to in this section and is essential for their proper administration.

Confidential information described in subsection 1, paragraphs "a", "b" and "c" shall be disclosed to public officials for use in connection with their official duties relating to law enforcement, audits, and other purposes directly connected with the administration of the programs, upon written application to and with the approval of the director or the director's designee.

5. If it is established that a provision of this section would cause any of the department's programs of services or assistance to be ineligible for federal funds, the provision shall be limited or restricted to the extent which is essential to make the program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, rules necessary to implement this subsection.

6. Violation of this section is a serious misdemeanor.

7. This section takes precedence over section 17A.12, subsection 7.

(83 Acts, ch 96, § 13, 159) SF 464

Effective October 1, 1983

NEW section

217A.19 Action for damages. A person may institute a civil action for damages under chapter 25A or to restrain the dissemination of confidential records set out in subsection 1, paragraph "b", "c", or "d" of section 217A.18, in violation of that section, and a person, including but not limited to an agency or governmental body, proven to have disseminated or to have requested and received confidential records in violation of subsection 1, paragraph "b", "c", or "d" of section 217A.18, is liable for actual damages and exemplary damages for each violation and is liable for court costs, expenses, and reasonable attorneys' fees incurred by the party bringing the action. The award for damages shall not be less than one hundred dollars.

Any reasonable grounds to believe that a public employee has violated a provision of section 217A.18 is grounds for immediate removal from access of any kind to confidential records or suspension from duty without pay.

(83 Acts, ch 96, § 14, 159) SF 464

Effective October 1, 1983

NEW section

217A.20 Powers of governor — report of abuses. Section 217A.8, subsection 1, paragraph *a*, does not limit the general supervisory or examining powers vested in the governor by the laws or constitution of the state, or legally vested by the governor in a committee appointed by the governor.

The superintendent of an institution shall make reports to the board and the director as requested by the board and the director and the director shall report, in writing, to the governor any abuses found to exist in any of the institutions.

(83 Acts, ch 96, § 15, 159) SF 464

Effective October 1, 1983

NEW section

217A.21 Appointment of superintendents. The director shall appoint, subject to the approval of the board, the superintendents of the institutions provided for in section 217A.2.

The superintendent has the immediate custody and control, subject to the orders and policies of the director, of all property used in connection with the institution except as otherwise provided by statute. The tenure of office of a superintendent shall be at the pleasure of the appointing authority but a superintendent may be removed for inability or refusal to properly perform the duties of the office. Removal shall occur only after an opportunity is given the person to be heard before the board and the director and upon preferred written charges. The removal when made is final.

(83 Acts, ch 96, § 16, 159) SF 464

Effective October 1, 1983

NEW section

217A.22 Farm operations administrator. The director may appoint a farm operations administrator for institutions under the control of the departments of corrections and human services. If appointed, the farm operations administrator, subject to the direction of the director shall do all of the following:

1. Manage and supervise all farming and nursery operations at institutions, farms and gardens of the departments of corrections and human services.

2. Determine priorities on the use of agricultural resources and labor for farming and nursery operations.

3. Develop an annual operations plan for crop and livestock production and utilization that will provide work experience and contribute to developing vocational skills of the institutions' inmates and residents. The department of human services must approve the parts of the plan that affect farm operations on property of institutions having programs of the department of human services.

4. Coordinate farm lease arrangements, farm input purchases, farm product distribution, machinery maintenance and replacement, and renovation of farm buildings, fences and livestock facilities.

5. Develop and maintain accounting records, budgeting and cash flow systems, and inventory records.

6. Advise and instruct institution staff and inmates in application of agricultural technology.

7. Implement actions to restore and maintain productivity of soil resources at the institutions through crop rotation, minimum tillage, contouring, terracing, waterways, pasture renovation, windbreaks, buffer zones, and wildlife habitat in accordance with soil conservation service plans and recommendations.

8. Administer the revolving farm fund created in section 217A.70.

9. Do any other farm management duties assigned by the director.

(83 Acts, ch 96, § 17, 159) SF 464

Effective October 1, 1983

NEW section

217A.23 Subordinate officers and employees. The director shall determine the number and compensation of subordinate officers and employees for each institution subject to chapter 19A. Subject to this chapter, the officers and employees shall be appointed and discharged by the superintendent who shall keep in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of and the reasons for each discharge.

(83 Acts, ch 96, § 18, 159) SF 464

Effective October 1, 1983

NEW section

217A.24 Bonds. The director shall require officers and employees of institutions under the director's control who are charged with the custody or control of money or property belonging to the state, to give an official bond properly conditioned and signed by sufficient sureties in a sum to be fixed by the director. The bond is subject to approval by the director and shall be filed in the office of the secretary of state.

(83 Acts, ch 96, § 19, 159) SF 464

Effective October 1, 1983

NEW section

217A.25 Dwelling house. The director may furnish the superintendent of each of the institutions, in addition to salary, with a dwelling house or with appropriate quarters in lieu of a house, or the director may compensate the superintendent of each of the institutions in lieu of furnishing a house or quarters. If a superintendent of the institution is furnished with a dwelling house or quarters, either of which is owned by the state, the superintendent may also be furnished with water, heat, and electricity.

The director may furnish assistant superintendents or other employees, or both, with dwelling houses or with appropriate quarters, owned by the state. The assistant superintendent or employee, who is so furnished shall pay rent for the dwelling house or quarters in an amount to be determined by the superintendent of the institution, which shall be the fair market rental value of the house or quarters. If an assistant superintendent or employee is furnished with a dwelling house or quarters either of which is owned by the state, the assistant superintendent or employee may also be furnished with water, heat, and electricity. However, the furnishing of these utilities shall be considered in determining the fair market rental value of the house or quarters.

(83 Acts, ch 96, § 20, 159) SF 464

Effective October 1, 1983

NEW section

217A.26 to 217A.30 Reserved.

217A.31 Transfer of inmates. The director may transfer at the expense of the state an inmate of one institution to another similar institution under the director's control. The director may transfer an inmate under the director's jurisdiction from any institution supervised by the director to another institution under the control of a director of a division of the department of human services with the consent and approval of the other director and may transfer an inmate to any other institution for mental or physical examination or treatment retaining jurisdiction over the inmate when so transferred.

(83 Acts, ch 96, § 21, 159) SF 464

Effective October 1, 1983

NEW section

217A.32 Record of inmates. The director shall keep the following record of every person committed to any of the department's institutions: Name, residence, sex, age, place of birth, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge is final, condition of the person when discharged, the name of the institutions from which and to which the person has been transferred, and if the person is dead, the date and cause of death.

(83 Acts, ch 96, § 22, 159) SF 464

Effective October 1, 1983

NEW section

217A.33 Record privileged. Except with the consent of the director, or on an order of the district court, the record provided in section 217A.32 shall be accessible only to the board and the director and to assistants and proper clerks authorized by the director. The director may permit the state libraries and the Iowa state historical department's division of historical museum and archives to copy or reproduce by any photographic, photostatic, microfilm, microcard, or other process which accurately reproduces in a durable medium and to destroy in the manner described by law the records of inmates required in section 217A.32.

(83 Acts, ch 96, § 23, 159) SF 464

Effective October 1, 1983

NEW section

217A.34 Reports to director. The superintendent of each institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of the person's entrance record to be made and forwarded to the director. When an inmate leaves, is discharged, transferred, or dies in any institution, the superintendent or person in charge shall within ten days thereafter send the information to the office of the director on forms which the director prescribes.

(83 Acts, ch 96, § 24, 159) SF 464

Effective October 1, 1983

New section

217A.35 Questionable commitment. The superintendent shall within three days of the commitment or entrance of a person at the institution notify the director if there is any question as to the propriety of the commitment or detention of any person received at the institution, and the director upon notification shall inquire into the matter presented, and take appropriate action.

(83 Acts, ch 96, § 25, 159) SF 464

Effective October 1, 1983

NEW section

217A.36 Religious beliefs. The superintendent receiving a person committed to any of the institutions shall ask the person to state the person's religious preference, shall enter the stated preference in a book kept for that purpose, and shall request that the person sign the entry. If the person is a minor and has formed no choice, the preference may be expressed at any later time by the person.

(83 Acts, ch 96, § 26, 159) SF 464

Effective October 1, 1983

NEW section

217A.37 Religious worship. Any inmate, during the time of detention, shall be allowed for at least one hour on each Sunday or other holy day or in times of extreme sickness, and at other suitable and reasonable times consistent with proper discipline in the institution, to receive spiritual advice, instruction, and ministrations from any recognized member of the clergy who represents the inmate's religious belief.

(83 Acts, ch 96, § 27, 159) SF 464
Effective October 1, 1983
NEW section

217A.38 to 217A.40 Reserved.

217A.41 Investigation. The director or director's designee shall visit and inspect the institutions under the director's control, and investigate the financial condition and management of the institutions at least once in six months.

During the investigation the director or designee shall see every inmate of each institution as far as practicable, especially those admitted since the preceding visit, and shall give the inmates suitable opportunity to converse with the director or designee apart from the officers and attendants.

(83 Acts, ch 96, § 28, 159) SF 464
Effective October 1, 1983
NEW section

217A.42 Investigation of other institutions. The director may investigate charges of abuse, neglect or mismanagement on the part of any officer or employee of any public or private institution subject to the director's supervision or control.

(83 Acts, ch 96, § 29, 159) SF 464
Effective October 1, 1983
NEW section

217A.43 Witnesses. The director may exercise the following powers in an investigation:

1. Summon and compel the attendance of witnesses.
2. Examine the witnesses under oath, which the director may administer.
3. Have access to all books, papers, and property material to the investigation.
4. Order the production of books or papers material to the investigation.

Witnesses other than those in the employ of the state are entitled to the same fees as in civil cases in the district court.

(83 Acts, ch 96, § 30, 159) SF 464
Effective October 1, 1983
NEW section

217A.44 Contempt. If a person fails or refuses to obey the orders of the director issued under section 217A.43, or fails or refuses to give or produce evidence when required, the director shall petition the district court in the county where the offense occurs for an order of contempt and the court shall proceed as for contempt of court.

(83 Acts, ch 96, § 31, 159) SF 464
Effective October 1, 1983
NEW section

217A.45 Transcript of testimony. The director shall cause the testimony taken at the investigation to be transcribed and filed in the director's office at the seat of government within ten days after the testimony is taken, or as soon as practicable, and when filed the testimony shall be open for the inspection of any person.

(83 Acts, ch 96, § 32, 159) SF 464
Effective October 1, 1983
NEW section

217A.46 Services required — wages. Inmates of the institutions may be required to render any proper and reasonable service either in the institutions proper or in the industries established in connection with them. When an inmate of an institution is working outside the institution proper, the inmate shall be deemed at all times to be in the actual custody of the superintendent of the institution.

The director may when practicable pay the inmate a wage as the director deems proper in view of the circumstances, and in view of the cost attending the maintenance of the inmate. The wage shall not exceed the amount paid to free labor for a like or equivalent service.

(83 Acts, ch 96, § 33, 159) SF 464

Effective October 1, 1983

NEW section

217A.47 Deduction to pay court costs or dependents — deposits. If wages are paid pursuant to section 217A.46, the director may deduct an amount established by the inmates' restitution plan of payment. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may pay all or any part of remaining wages paid pursuant to section 217A.46 directly to a dependent of the inmate, or may deposit the wage to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

(83 Acts, ch 96, § 34, 159) SF 464

Effective October 1, 1983

NEW section

217A.48 to 217A.50 Reserved.

217A.51 Conferences. Quarterly conferences of the superintendents of the institutions shall be held with the director for the consideration of all matters relative to the management of the institutions. Full minutes of the meetings shall be preserved in the records of the director. The director may cause papers to be prepared and read at the conferences on appropriate subjects.

(83 Acts, ch 96, § 35, 159) SF 464

Effective October 1, 1983

NEW section

217A.52 Diagnostic clinic — inmate classification. The director may provide facilities and personnel for a diagnostic clinic. The work of the clinic shall include a scientific study of each inmate, the inmate's career and life history, the causes of the inmate's criminal acts and recommendations for the inmate's custody, care, training, employment, and counseling with a view to rehabilitation and to the protection of society. To facilitate the work of the clinic and to aid in the rehabilitation of the inmates, the trial judge, prosecuting attorney, and presence investigators shall furnish the director upon request with a full statement of facts and circumstances attending the commission of the offense so far as known or believed by them. If the department develops and utilizes an inmate classification system, it must, within a reasonable time, present evidence from independent experts as to the effectiveness and validity of the classification system.

(83 Acts, ch 96, § 36, 159) SF 464

Effective October 1, 1983

NEW section

217A.53 Annual reports. The superintendent of each institution shall make an annual report to the director. The report shall include a detailed and accurate inventory of the stock and supplies on hand, and their amount and value.

(83 Acts, ch 96, § 37, 159) SF 464

Effective October 1, 1983

NEW section

217A.54 Contingent fund. The director may permit the superintendent of each institution to retain a stated amount of funds in possession as a contingent fund for the payment of freight, postage, commodities purchased on authority of the director on a cash basis, salaries, and bills granting discount for cash. If necessary, the director shall make proper requisition upon the state comptroller for a warrant on the treasurer of state to secure the contingent fund for each institution. A monthly report of the status of the contingent fund shall be submitted by the superintendent of the institution to the director, according to rules prescribed by the director.

(83 Acts, ch 96, § 38, 159) SF 464

Effective October 1, 1983

NEW section

217A.55 Purchase of supplies. The director shall adopt rules governing the purchase of all articles and supplies needed at the various institutions and the form and verification of vouchers for the purchases. When purchases are made by sample, the sample shall be properly marked and retained until after an award or delivery of the items is made. The director may purchase supplies from any institution under the director's control, for use in any other institution, and reasonable reimbursement shall be made for these purchases.

(83 Acts, ch 96, § 39, 159) SF 464

Effective October 1, 1983

NEW section

217A.56 Emergency purchases. The purchase of materials or equipment for penal or correctional institutions under the department is exempted from the requirements of centralized purchasing and bidding by the department of general services if the materials or equipment are needed to make an emergency repair at an institution or the security of the institution would be jeopardized because the materials or equipment could not be purchased soon enough through centralized purchasing and bidding and, in either case, if the director approves the emergency purchase.

(83 Acts, ch 96, § 40, 159) SF 464

Effective October 1, 1983

NEW section

217A.57 Plans and specifications. The director shall cause plans and specifications to be prepared for all improvements authorized and costing over twenty-five thousand dollars. An appropriation for any improvement costing over twenty-five thousand dollars shall not be expended until the adoption of suitable plans and specifications, prepared by a competent architect and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of the improvement.

A plan shall not be adopted, and an improvement shall not be constructed, which contemplates an expenditure of money in excess of the appropriation.

(83 Acts, ch 96, § 41, 159) SF 464

Effective October 1, 1983

NEW section

217A.58 Letting of contracts—repairs or alterations. The director shall, in writing, let all contracts for authorized improvements costing in excess of twenty-five thousand dollars to the lowest responsible bidder, after advertisement for bids as the director deems proper in order to secure full competition. The director may reject all bids and readvertise. A preliminary deposit of money, bank check, or certified check, or a bid bond as provided in section 23.20, in an amount the director prescribes shall be required as an evidence of good faith, upon all proposals for the construction of improvements. The deposit, bank check, or certified check shall be held under the direction of the director. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent of any institution.

Contracts are not required for improvements at any state institution where the labor of inmates is to be used.

(83 Acts, ch 96, § 42, 159) SF 464

Effective October 1, 1983

NEW section

217A.59 Payment for improvements. The director shall not authorize payment for construction purposes until satisfactory proof has been furnished to the director by the proper officer or supervising architect, that the contract has been complied with by the parties. Payments shall be made in a manner similar to that in which the current expenses of the institutions are paid.

(83 Acts, ch 96, § 43, 159) SF 464

Effective October 1, 1983

NEW section

217A.60 to 217A.65 Reserved.

217A.66 Property of deceased inmate. Upon the death of an inmate, the superintendent of the institution shall immediately take possession of the decedent's property left at the institution and shall deliver the property to the duly appointed representative of the deceased. However, if administration is not granted within one year from the date of the death of the decedent and the value of the estate of decedent is so small as to make the granting of administration inadvisable, then delivery of the money and other property left by the decedent may be made to the surviving spouse or an heir of the decedent. If administration is not granted within one year from the death of decedent and no surviving spouse or heir is known, the superintendent shall convert the property into money.

(83 Acts, ch 96, § 44, 159) SF 464

Effective October 1, 1983

NEW section

217A.67 Money deposited with treasurer of state. Money from property converted pursuant to section 217A.66 shall be transmitted to the treasurer of state as soon after one year after the death of the inmate as practicable. A complete permanent record of the property, showing by whom and with whom it was left, its amount when converted to money, the date of the death of the owner, the owner's reputed place of residence before becoming an inmate of the institution, the date on which the money was sent to the treasurer of state, and any other facts which may tend to identify the decedent and explain the case, shall be kept by the superintendent of the institution, and a transcript of the record shall be sent to and kept by the treasurer of state.

Money deposited with the treasurer of state pursuant to this section shall be paid at any time within ten years from the death of the inmate to any person who is shown to be entitled to it.

(83 Acts, ch 96, § 45, 159) SF 464

Effective October 1, 1983

NEW section

217A.68 Temporary quarters in emergency. If the buildings at any institution under the management of the director are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the inmates cannot be confined and cared for at the institution, the director shall make temporary provision for the confinement and care of the inmates at some other place in the state. Like provision may be made in case of an epidemic among the inmates. The reasonable cost of the change including the cost of transfer of inmates, shall be paid from any money in the state treasury not otherwise appropriated.

(83 Acts, ch 96, § 46, 159) SF 464

Effective October 1, 1983

NEW section

217A.69 Industries. The director may establish industries at or in connection with any of the institutions under the director's control and may make contractual agreements with the United States, other states, state departments and agencies, and subdivisions of the state, for purchase of industry products.

The director may with the assistance of the Iowa state conservation commission establish and operate forestry nurseries on state-owned land under the control of the department. Residents of the adult correctional institutions shall provide the labor for the operation. Nursery stock shall be sold in accordance with the rules of the state conservation commission. The department shall pay the costs of establishing and operating the forestry nurseries out of the revolving farm fund created in section 217A.70. The state conservation commission shall pay the costs of transporting, sorting, and distributing nursery stock to and from or on state-owned land under the control of the commission. Receipts from the sale of nursery stock produced under this section shall be divided between the department and the state conservation commission in direct proportion to their respective costs as a percentage of the total costs. The department shall deposit its receipts in the revolving farm fund created in section 217A.70.

(83 Acts, ch 96, § 47, 159) SF 464

Effective October 1, 1983

NEW section

217A.70 Revolving farm fund. A revolving farm fund is created in the state treasury in which the department shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature. Before the department sells farmland under the control of the department, the director shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state.

The department shall annually prepare a financial statement to provide for an accounting of the funds in the revolving farm fund. The financial statement shall be filed with the legislative fiscal bureau on or before February 1 each year.

As used in this section, "department" means the Iowa department of corrections and the Iowa department of human services.

The farm operations administrator appointed under section 217A.22 shall perform the functions described under section 217A.22 for agricultural operations on property of the Iowa department of human services.

The Iowa department of human services shall enter into an agreement under chapter 28D with the Iowa department of corrections to implement this paragraph.

(83 Acts, ch 96, § 48, 159) SF 464

Effective October 1, 1983

NEW section

217A.71 Cooperation. The department and the director shall cooperate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the

institutions. Joint use of facilities by the department and another public agency as defined in section 28E.2 shall be only according to an agreement entered into under chapter 28E. All joint campuses shall have one superintendent and one business manager who shall be employed by the department with supervisory responsibility for the majority of the facility's population. Employment of the superintendent and business manager shall be done in consultation with the department which has responsibility for services for the other population at the facility.

(83 Acts, ch 96, § 49, 159) SF 464

Effective October 1, 1983

NEW section

217A.72 Consultants. The director may secure the services of consultants to furnish advice on administrative, professional, or technical problems to the director or the employees of institutions under the director's jurisdiction or to provide in-service training and instruction for the employees. The director may pay the consultants from funds appropriated to the department or to any institution under the department's jurisdiction.

(83 Acts, ch 96, § 50, 159) SF 464

Effective October 1, 1983

NEW section

217A.73 Director may buy and sell real estate — options. The director, subject to the approval of the board and executive council, may secure options to purchase real estate and acquire and sell real estate for the proper uses of the institutions. Real estate shall be acquired and sold upon terms and conditions the director recommends subject to the approval of the board and the executive council. Upon sale of the real estate, the proceeds shall be deposited with the treasurer of state and credited to the general fund of the state. There is appropriated from the general fund of the state to the department a sum equal to the proceeds so deposited and credited to the general fund of the state which, with the prior approval of the executive council, may be used to purchase other real estate or for capital improvements upon property under the director's supervision.

The costs incident to the securing of options and acquisition and sale of real estate including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which the real estate is located. The fund shall be reimbursed from the proceeds of the sale.

(83 Acts, ch 96, § 51, 159) SF 464

Effective October 1, 1983

NEW section

217A.74 Fire protection contracts. The director may enter into contracts with the governing body of any city for the protection from fire of any property under the director's primary control, located in any city or in territory contiguous to a city.

The state fire marshal shall cause an annual inspection to be made of all the institutions listed in section 217A.2 and shall make a written report of the inspection to the director.

(83 Acts, ch 96, § 52, 159) SF 464

Effective October 1, 1983

NEW section

217A.75 Gifts. The department may accept gifts of real or personal property from the federal government or any source. The director may exercise powers with reference to the property so accepted as necessary or appropriate to its preservation and the purposes for which it is given.

(83 Acts, ch 96, § 53, 159) SF 464

Effective October 1, 1983

NEW section

217A.76 Canteen maintained. The director may maintain a canteen at any institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen.

(83 Acts, ch 96, § 54, 159) SF 464

Effective October 1, 1983

NEW section

217A.77 Confiscation of contraband currency.

1. Except as provided for by the director by rule, it is unlawful for an inmate of one of the penal or correctional facilities under the department to possess United States or foreign currency in the penal or correctional facility.

2. The director shall adopt rules as to circumstances under which the possession of currency by an inmate of a penal or correctional facility under the department, is authorized.

3. The department may confiscate currency unlawfully possessed in violation of this section. Money confiscated pursuant to this section shall be deposited in a special fund in the state treasury which fund shall be established by the treasurer of state. Money deposited in the fund may be drawn upon by the department to pay for expenses incurred in operating the division's penal and correctional facilities and programs.

(83 Acts, ch 51, § 2, 7, 9) SF 503

Effective May 6, 1983

See Code editor's note at the end of this Supplement

NEW section

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

217A.78 Employment of inmates — institutions and public service.

Inmates shall be employed only on state account in the maintenance of state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with the institutions, and in industries established and maintained in connection with the institutions by the state director. The state director may detail prisoners classified as trustees, from correctional institutions under the control of the state director to perform public service for the conservation commission and other agencies of state, county, or local government. The supervision, security, transportation, and compensation of inmates used in public service projects shall be provided pursuant to agreements made by the state director and the agency of state, local, or county government for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement unless the inmate is housed and maintained in the correctional facility. All such employment, including but not limited to that provided in this section, shall have as its primary purpose, and shall provide for, inculcation or the reactivation of attitudes, skills, and habit patterns which will be conducive to inmate rehabilitation.

However, an inmate shall not be employed in a public service project if the employment of that inmate would replace a person employed by the state agency or political subdivision which employee is performing the work of the public service project at the time the inmate is being considered for employment in the project.

(83 Acts, ch 51, § 3, 7, 9) SF 503

Effective May 6, 1983

Transferred from section 246.18, Code 1983

Amended

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983; see Code Editor's note to this section and section 12.10 at the end of this Supplement

Amended

217A.79 Limitation on contract. The state director or the wardens and superintendents of the institutions shall not, nor shall any other person employed by the state, make any contract by which the labor or time of a prisoner or inmate in the institution is given, loaned, or sold to any person unless as provided by chapter 216 or section 217A.78.

(83 Acts, ch 51, § 4, 7, 9) SF 503

Effective May 6, 1983

Transferred from section 246.25, Code 1983

Amended

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983; see Code editor's note to this section and section 12.10 at the end of this Supplement

Amended

CHAPTER 218

GOVERNMENT OF INSTITUTIONS

218.1 Institutions controlled. The commissioner of the state department of human services shall have the general and full authority given under statute to control, manage, direct and operate the following institutions under his jurisdiction, and may at his discretion execute the powers and authorities given him by statute to any one of his division directors or to any of the officers or employees of the divisions of the department of human services:

1. Iowa veterans home.
2. Glenwood state hospital-school.
3. Woodward state hospital-school.
4. Mental health institute, Cherokee, Iowa.
5. Mental health institute, Clarinda, Iowa.
6. Mental health institute, Independence, Iowa.
7. Mental health institute, Mount Pleasant, Iowa.
8. State training school.
9. Iowa juvenile home.
10. Other facilities not attached to the campus of the main institution as program developments require.

(83 Acts, ch 101, §37) SF 136

Subsections 1 and 8 amended

(83 Acts, ch 96, § 66, 157, 159) SF 464

Amendments striking subsections 10 through 16 effective October 1, 1983

Unnumbered paragraph 1 amended

Subsections 10 through 16 struck and following section renumbered

218.2 Powers of governor — report of abuses. Nothing contained in section 218.1 shall limit the general supervisory or examining powers vested in the governor by the laws or Constitution of the state, or legally vested by him in any committee appointed by him.

The division director to whom primary responsibility of a particular institution has been assigned shall make such reports to the commissioner of the department of human services as are requested by him and the commissioner shall report, in writing, to the governor any abuses found to exist in any of the said institutions.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 2 amended

218.3 Primary authority for management. The primary authority and responsibility to control, manage, direct and operate the institutions set forth in section 218.1 is hereby assigned to the directors of the various divisions of the state department of human services as follows:

1. The director of the division of child and family services of the department of human services shall have primary authority and responsibility relative to the following institutions: The state training school, and the Iowa juvenile home.

2. The director of the division of mental health, mental retardation, and developmental disabilities of the department of human services has primary authority and responsibility relative to the following institutions: Glenwood state hospital-school, Woodward state hospital-school, mental health institute, Cherokee, Iowa, mental health institute, Clarinda, Iowa, mental health institute, Independence, Iowa and mental health institute, Mount Pleasant, Iowa.

(83 Acts, ch 101, § 38) SF 136

Subsection 3 amended

(83 Acts, ch 96, § 67, 157, 159) SF 464

Amendment striking subsection 3 effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

Subsection 3 struck

218.4 Recommendation for rules. The directors of particular institutions shall recommend to the council on human services for adoption such rules not inconsistent with law as they may deem necessary for the discharge of their duties, the management of each of such institutions, the admission of residents thereto and the treatment, care, custody, education and discharge of residents. It is made the duty of the particular directors to establish rules by which danger to life and property from fire will be minimized. In the discharge of their duties and in the enforcement of their rules, they may require any of their appointees to perform duties in addition to those required by statute.

Such rules when prescribed or approved by the council shall be uniform and shall apply to all institutions under the particular director and to all other institutions under his jurisdiction and the primary rules of the director of the division of mental health for use in institutions where the mentally ill are kept shall, unless otherwise indicated, uniformly apply to county or private hospitals wherein the mentally ill are kept, but such rules shall not interfere with proper medical treatment administered patients by competent physicians. Annually, signed copies of such rules shall be sent to the chief executive officer of each such institution or hospital under the control or supervision of a particular director and copies shall also be sent to the clerk of each district court, the chairman of the board of supervisors of each county and, as appropriate, to the officer in charge of institutions or hospitals caring for the mentally ill in each county who shall be responsible for seeing that the same is posted in each institution or hospital in a prominent place. Such rules shall be kept current to meet the public need and shall be revised and published annually.

The state fire marshal shall cause to be made an annual inspection of all the institutions listed in section 218.1 and shall make written report thereof to the particular director of the state department of human services in control of such institution.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Amendment changing "inmates" to "residents" effective October 1, 1983

Unnumbered paragraphs 1 and 3 amended

218.5 Fire protection contracts. The directors of the divisions of the state department of human services shall have power to enter into contracts with the governing body of any city or other municipal corporation for the protection from fire of any property under such directors primary control, located in any such municipal corporation or in territory contiguous thereto, upon such terms as may be agreed upon.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.7 Emergency purchases. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

218.9 Appointment of superintendents. The director of the division of mental health, mental retardation, and developmental disabilities of the department of human services, subject to the approval of the commissioner of the department, shall appoint the superintendents of the state hospital-schools for the mentally retarded and the mental health institutes.

The director of the division of child and family services of the department of human services, subject to the approval of the commissioner of human services shall appoint the superintendents of the juvenile home, and the state training school.

The superintendent or warden shall have immediate custody and control, subject to the orders and policies of the division director in charge of the institution, of all property used in connection with the institution except as provided in this chapter or section 219.7. The tenure of office shall be at the pleasure of the appointing authority. The appointing authority may transfer a superintendent or warden from one institution to another.

(83 Acts, ch 101, § 39) SF 136

Unnumbered paragraph 2 amended

(83 Acts, ch 96, § 68, 157, 159) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Unnumbered paragraph 1 amended

Unnumbered paragraph 2 struck effective October 1, 1983

Unnumbered paragraph 2 (formerly 3) amended

218.10 Subordinate officers and employees. The division director in charge of a particular institution, with the consent and approval of the commissioner of the department of human services, shall determine the number and compensation of subordinate officers and employees for each institution. Subject to the provisions of this chapter, such officers and employees shall be appointed and discharged by the chief executive officer or business manager. Such officer shall keep, in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of each discharge, and the reasons therefor.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.11 Interagency case information service. The department of human services shall provide for and be the administrative agency for the interagency case information service. The department shall perform such duties and responsibilities as required under the provisions of chapter 220A.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.13 Salaries. The division director having control of any state institution shall annually, on each employee's employment anniversary date, review and fix the annual, monthly, or semimonthly salaries of said employees, except such salaries as are fixed by the general assembly. The division director shall classify the officers and employees into grades and the salary and wages to be paid in each grade shall be uniform in similar institutions. The authority given in this section is all subject to the consent and approval of the commissioner of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.14 Dwelling house. The division director having control over any state institution may, with consent of the commissioner of human services, furnish the executive head of each of the institutions, in addition to salary, with a dwelling house or with appropriate quarters in lieu thereof, or the division director may compensate the executive head of each of the institutions in lieu of furnishing a house or quarters. If an executive head of the institution is furnished with a dwelling house or quarters, either of which is owned by the state, the executive head may also be furnished with water, heat and electricity.

The division director having control over any state institution may furnish assistant executive heads or other employees, or both, with dwelling houses or with appropriate quarters, owned by the state. The assistant executive head or employee, who is so furnished shall pay rent for the dwelling house or quarters in an amount to be determined by the executive head of the institution, which shall be the fair market rental value of the house or quarters. If an assistant executive head or employee is furnished with a dwelling house or quarters either of which is owned by the state, the assistant executive head or employee may also be furnished with water, heat and electricity. However, the furnishing of these utilities shall be considered in determining the fair market rental value of the house or quarters.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

218.16 Annuity contracts for employees. At the request of an employee through contractual agreement, the department of human services or any institution under its jurisdiction may purchase an individual annuity contract for an employee, from such insurance organization authorized to do business in this state and through an Iowa-licensed insurance agent as the employee may select, for retirement or other purposes and may make payroll deductions in accordance with such arrangements for the purpose of paying the entire premium due and to become due under such contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403(b) of the Internal Revenue Code of 1954 and amendments thereto. The employee's rights under such annuity contracts shall be nonforfeitable except for the failure to pay premiums.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.18 Record of employees and residents. The director of the department of human services in control of a particular state institution shall require the proper officer of each institution to keep a record prepared for the purpose, with entries to be made each day, of the number of hours of service of each employee. The semimonthly payroll shall be made from such record, and shall be in accord therewith. When an appropriation is based on the number of residents in or persons at an institution the director shall require a daily record to be kept of the persons actually residing at and domiciled in such institution.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Amendment changing "inmates" to "residents" effective October 1, 1983

Amended

218.19 Districts. The director having control over any state institution shall, from time to time, divide the state into districts from which the several institutions may receive residents. The particular division directors shall promptly notify the proper county or judicial officers of all changes in such districts.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.20 Place of commitments — transfers. Commitments, unless otherwise permitted by the division director having control over any state institution, shall be to the institution located in the district embracing the county from which the commitment is issued. The particular division directors may, at the expense of the state, transfer a resident of one institution to another like institution.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.21 Record of residents. The director of the department of human services in control of a state institution shall, as to every person committed to any of said institutions, keep the following record: Name, residence, sex, age, nativity, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge was final, condition of the person when discharged, the name of the institutions from which and to which such person has been transferred, and, if dead, the date, and cause of death.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Amendment changing "inmates" to "residents" effective October 1, 1983

Amended

218.22 Record privileged. Except with the consent of the director in charge of an institution, or on an order of a court of record, the record provided in section 218.21 shall be accessible only to the director of the division of the department of human services in control of such institution, the commissioner of the department of human services and to assistants and proper clerks authorized by such director or his commissioner. The director of the division of such institution is authorized to permit the state libraries and historical department division of archives to copy or reproduce by any photographic, photostatic, microfilm, microcard or other process which accurately reproduces a durable medium for reproducing the original and to destroy in the manner described by law such records of residents designated in section 218.21.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Amendment changing "inmates" to "residents" effective October 1, 1983

Amended

218.23 Reports to director. The managing officer of each institution shall, within ten days after the commitment or entrance of a person to the institution, cause a true copy of his entrance record to be made and forwarded to the director in control of such institution. When a patient or resident leaves, or is discharged, or transferred, or dies in any institution, the superintendent or person in charge shall within ten days thereafter send such information to the office of such director on forms which the director prescribes.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.26 Religious worship. Any such resident, during the time of his detention, shall be allowed, for at least one hour on each Sunday and in times of extreme sickness, and at such other suitable and reasonable times as is consistent with proper discipline in said institution, to receive spiritual advice, instruction, and ministrations from any recognized clergyman of the church or denomination which represents his religious belief.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.27 Religious belief of minors. In case such resident is a minor and has formed no choice, his preference may, at any time, be expressed by himself with the approval of parents or guardian, if he has any such.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.28 Investigation. The director of the department of human services in control of a particular institution or his authorized officer or employee shall visit, and minutely examine, at least once in six months, and oftener if necessary or required by law, the institutions under such director's control, and the financial condition and management thereof.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.29 Scope of investigation. The director of the department of human services in control of a particular institution or his authorized officer or employee shall, during such investigation and as far as possible, see every resident of each institution, especially those admitted since the preceding visit, and shall give such residents as may require it, suitable opportunity to converse with such director or his authorized officer or employee apart from the officers and attendants.

(83 Acts, ch 96, § 157, 159) SF 464

Amendment changing "inmate(s)" to "resident(s)" effective October 1, 1983

Amended

218.30 Investigation of other institutions. The directors of the department of human services to whom control of state institutions has been delegated, or their authorized officers or employees, may investigate charges of abuse, neglect or mismanagement on the part of any officer or employee of any private institution which is subject to such director's particular supervision or control. The director of the division of mental health, or his authorized officer or employee, shall likewise investigate charges concerning county care facilities in which mentally ill persons are kept.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.40 Services required. Residents of said institutions subject to the provisions hereinafter provided, may be required to render any proper and reasonable service either in the institutions proper or in the industries established in connection therewith.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.41 Custody. When a resident of an institution is so working outside the institution proper, he shall be deemed at all times in the actual custody of the head of the institution.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.42 Wages of residents. When a resident performs services for the state at an institution, the director in control of such institution may, when he deems such course practicable, pay such resident such wage as it deems proper in view of the circumstances, and in view of the cost attending the maintenance of such resident. In no case shall such wage exceed the amount paid to free labor for a like service or its equivalent.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.43 Deduction to pay court costs. If such wage be paid, the director in control of such institution may deduct therefrom an amount sufficient to pay all or a part of the costs taxed to such resident by reason of his commitment to said institution. In such case the amount so deducted shall be forwarded to the clerk of the district court or proper official.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.44 Wages paid to dependent — deposits. If such wage be paid, the director in control of such institution may pay all or any part of the same directly to any dependent of such resident, or may deposit such wage to the account of such resident, or may so deposit part thereof and allow the resident a portion for his own personal use, or may pay to the county of commitment all or any part of his care,

treatment or subsistence while at said institution from any credit balance accruing to the account of said resident.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.46 Scientific investigation.

1. The directors of divisions of the department of human services who are in charge of institutions shall encourage the scientific investigation, on the part of the executive heads and medical staffs of the various institutions, as to the most successful methods of managing such institutions and treating the persons committed thereto, shall procure and furnish to such heads and staffs information relative to such management and treatment, and, from time to time, publish bulletins and reports of scientific and clinical work done in said institutions.

2. The directors of such state institutions are authorized to provide services and facilities for the scientific observation, rechecking and treatment of mentally ill persons within the state. Application by, or on behalf of, any person for such services and facilities shall be made to the director in charge of the particular institution involved and shall be made on forms furnished by such director. The time and place of admission of any person to outpatient or clinical services and facilities for scientific observation, rechecking and treatment and the use of such services and facilities for the benefit of persons who have already been hospitalized for psychiatric evaluation and appropriate treatment or involuntarily hospitalized as seriously mentally ill shall be in accordance with rules and regulations adopted by the director in control of the particular institution involved.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

218.50 Requisition for contingent fund. If necessary, the commissioner of the department of human services shall make proper requisition upon the state comptroller for a warrant on the state treasurer to secure the said contingent fund for each institution.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.55 Purchase from an institution. The director of a division of the department of human services may purchase supplies of any institution under his control, for use in any other such institution, and reasonable payment therefor shall be made as in case of other purchases.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.57 Combining appropriations. The state comptroller is authorized to combine the balances carried in all specific appropriations into a special account for each institution under the control of a particular director of a division of the department of human services, except that the support fund for each institution shall be carried as a separate account.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.58 State architect. The commissioner of the department of human services may employ a competent architect, and such draftsmen as may be authorized by law. Said architect shall, in addition to salary, be reimbursed for his actual and necessary expenses within the state while engaged in official business. In cases of sufficient magnitude the commissioner may secure the advice of a consulting architect, or may secure plans and specifications from other architects, at a cost not exceeding one thousand five hundred dollars in any year, unless a larger amount is approved by the executive council.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.61 Preliminary deposit. A preliminary deposit of money, or certified check upon a solvent bank in such amount as the commissioner of the department of human services may prescribe, shall be required as an evidence of good faith, upon all proposals for the construction of said improvements, which deposit or certified check shall be held under the direction of such commissioner.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.64 Payment for improvements. No payment shall be authorized for construction purposes until satisfactory proof has been furnished to the commissioner of the department of human services, by the proper officer or supervising architect, that the contract has been complied with by the parties; and all payments shall be made in a manner similar to that in which the current expenses of the several institutions are paid.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.65 Property of deceased resident. The chief executive officer or business manager of each institution shall, upon the death of any resident or patient, immediately take possession of all property of the deceased left at said institution, and deliver the same to the duly appointed and qualified representative of the deceased.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.68 Money deposited with treasurer of state. Said money shall be transmitted to the treasurer of state as soon after one year after the death of the intestate as practicable, and be credited to the support fund of the institution of which the intestate was a resident.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.69 Permanent record. A complete permanent record of the money so sent, showing by whom and with whom it was left, its amount, the date of the death of the owner, his reputed place of residence before he became a resident of the institution, the date on which it was sent to the state treasurer and any other facts which may tend to identify the intestate and explain the case, shall be kept by the chief executive officer of the institution or business manager, as the case may be, and a transcript thereof shall be sent to, and kept by, the treasurer of state.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Amended

218.72 Temporary quarters in emergency. In case the buildings at any institution under the management of a director of the division of the department of human services are destroyed or rendered unfit for habitation by reason of fire, storms, or other like causes, to such an extent that the residents cannot be there confined and cared for, said director shall make temporary provision for the confinement and care of the residents at some other place in the state. Like provision may be made in case any pestilence breaks out among the residents. The reasonable cost of the change, including transfer of residents, shall be paid from any money in the state treasury not otherwise appropriated.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Amendment changing "inmates" to "residents" effective October 1, 1983

Amended

218.73 Industries. The director of a division of the department of human services in control of a state institution may establish industries as the director deems advisable at or in connection with any of the institutions under the director's control.

The director of the division of adult corrections may with the assistance of the Iowa state conservation commission establish and operate forestry nurseries on state owned land under the control of the department of human services. Residents of the adult correctional institutions shall provide the labor for the operation. Nursery stock shall be sold in accordance with the rules of the state conservation commission. The department of human services shall pay the costs of establishing and operating the forestry nurseries on state owned land under the control of the department out of the revolving farm fund created in section 218.74. The state conservation commission shall pay the costs of transporting, sorting, and distributing nursery stock to and from or on state owned land under the control of the commission. Receipts from the sale of nursery stock produced under this section shall be divided between the department of human services and the state conservation commission in direct proportion to their respective costs as a percentage of the total costs. The department of human services shall deposit its receipts in the revolving farm fund created in section 218.74.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.74 Revolving farm fund. A revolving farm fund is created in the state treasury in which the department of human services shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature. Before any department sells farmland under the control of the department, that department shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state and the investment proceeds earned from the balance of the fund shall be credited to the fund and used for the purposes provided for in this section.

The department of human services shall annually prepare a financial statement to provide for an accounting of the funds in the revolving farm fund. The financial statement shall be filed with the legislative fiscal bureau on or before February 1 each year.

(83 Acts, ch 203, § 16) SF 532
Unnumbered paragraph 1 amended
(83 Acts, ch 96, § 157, 159) SF 464
See Code editor's note to section 12.10 at the end of this Supplement
Amended

218.75 Payments for medical assistance. Each hospital-school shall, upon receipt of any payment made under chapter 249A for the care of any patient, segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.78 Institutional receipts deposited.

1. All institutional receipts of the department of human services shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, for receipts deposited in the revolving farm fund under section 218.74, and rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions.

2. If approved by the commissioner of human services, the department may use appropriated funds for the granting of educational leave.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.83 Co-operation. The commissioner of the department of human services and the directors of the divisions therein are directed to co-operate with any department or agency of the state government in any manner, including the exchange of employees, calculated to improve administration of the affairs of the institutions under the control of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.84 Abstracting claims and keeping accounts. The commissioner of the department of human services shall have sole charge of abstracting and certifying claims for payment and the keeping of a central system of accounts in institutions under his control.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.85 Uniform system of accounts. The commissioner of the department of human services through the directors of the divisions in control of state institutions shall install in all such state institutions under his control and supervision the most modern, complete, and uniform system of accounts, records, and reports possible, which system shall be prescribed by the state comptroller as authorized in section 8.6, subsection 4, and, among other matters, shall clearly show the detailed facts relative to the handling and uses of all purchases.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.88 Institutional payrolls. At the close of each pay period, the chief executive officer of each institution or business manager of each institution having the same, shall prepare and forward to the commissioner of the department of human services a semimonthly payroll which shall show the name of each officer and employee, the semimonthly pay, time paid for, the amount of pay, and any deductions. In no event shall a substitute be permitted to receive compensation in the name of the employee for whom he is acting.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

218.90 Transfer of prisoners. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

218.91 Boys transferred from training school to reformatory. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

218.92 Dangerous mental patients. When a patient in any state hospital-school for the mentally retarded, any mental health institute, or any institution under the administration of the director of the division of mental health of the department of human services, has become so mentally disturbed as to constitute

a danger to self, to other patients in the institution or to the public, and the institution involved cannot provide adequate security, the director of mental health with the consent of the director of the Iowa department of corrections may order the patient to be transferred to the Iowa security and medical facility, provided that the executive head of the institution from which the patient is to be transferred, with the support of a majority of the medical staff recommends the transfer in the interest of the patient, other patients or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section 229.15, subsection 3. The Iowa security and medical facility has the same rights, duties and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

(83 Acts, ch 96, § 69, 159) SF 464

Effective October 1, 1983

Amended

218.93 Consultants for commissioner or directors. The commissioner of the department of human services or the directors of divisions in control of state institutions are authorized to secure the services of consultants to furnish advice on administrative, professional or technical problems to the commissioner or such directors, their employees or employees of institutions under their jurisdiction or to provide in-service training and instruction for such employees. The commissioner and directors are authorized to pay the consultants at a rate to be determined by them from funds appropriated to their division or to any institution under their jurisdiction as such commissioner or director may determine.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.94 Commissioner may buy and sell real estate — options. The commissioner of the department of human services shall have full power, subject to the approval of the executive council to secure options to purchase real estate, to acquire and sell real estate, and to grant utility easements, for the proper uses of said institutions. Real estate shall be acquired and sold and utility easements granted, upon such terms and conditions as the commissioner may recommend subject to the approval of the executive council. Upon sale of such real estate, the proceeds thereof shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the department of human services, which with the prior approval of the executive council may be used to purchase other real estate or for capital improvements upon property under such commissioner's control.

The costs incident to securing of options, acquisition and sale of real estate and granting of utility easements, including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which such real estate is located. Such fund shall be reimbursed from the proceeds of the sale.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

218.95 Synonymous terms. For purposes of construing the provisions of this title relating to the mentally ill and reconciling same with other former and present provisions of statute, the following terms shall be considered synonymous:

1. "Mentally ill" and "insane", except that the hospitalization or detention of any person for treatment of mental illness shall not constitute a finding or create a presumption that the individual is legally insane in the absence of a finding of incompetence made pursuant to section 229.27;

2. "Mental defectives" and "mentally retarded";
3. "Feeble-minded" and "mentally retarded";
4. "Defectiveness" and "retardation";
5. "Parole" and "convalescent leave";
6. "Resident" and "patient";
7. "Escape" and "depart without proper authorization";
8. "Warrant" and "order of admission";
9. "Escapee" and "patient";
10. "Sane" and "in good mental health";
11. "Commissioners of insanity" and "commissioners of hospitalization";
12. "Idiot" and "mental retardate";
13. "Recapture" and "take into protective custody";
14. "Asylum" and "hospital";
15. "Commitment" and "admission".

It is hereby declared to be the policy of the general assembly that words which have come to have a degrading meaning shall not be employed in institutional records having reference to the mentally afflicted and that in all such records the less discriminatory of the foregoing synonyms shall be employed.

(83 Acts, ch 96, § 159, 160) SF 464

Effective October 1, 1983

Subsection 6 amended

218.96 Gifts, grants and devises. The commissioner of the department of human services is authorized to accept gifts, grants, devises or bequests of real or personal property from the federal government or any source. The commissioner may exercise such powers with reference to the property so accepted as may be deemed essential to its preservation and the purposes for which given, devised or bequeathed.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.97 Diagnostic clinic — information furnished. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

218.98 Canteen maintained. The directors of divisions in the department of human services in control of state institutions may maintain a canteen at any institution under their jurisdiction and control for the sale to persons confined therein of toilet articles, candy, tobacco products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise therefor. Such directors shall specify what commodities will be sold therein. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218.99 County auditors to be notified of patients' personal accounts. The director of a division of the department of human services in control of a state institution shall direct the business manager of each institution under the director's jurisdiction which is mentioned in section 331.424, subsection 1, paragraphs "a" through "g" to quarterly inform the auditor of the county of legal settlement of any patient or resident who has an amount in excess of two hundred dollars on account in the patients' personal deposit fund and the amount on deposit. The directors shall direct the business manager to further notify the auditor of the county at least fifteen days before the release of funds in excess of two hundred dollars or upon the death of the patient or resident. If the patient or resident has no county of legal settlement, notice shall be made to the commissioner of the department of human services and

the director of the division of the department in control of the institution involved.

(83 Acts, ch 123, § 80, 209) HF 628

Amended

(83 Acts, ch 96, § 157, 159, 160) SF 464

Amendment changing "inmate" to "resident" effective October 1, 1983; see Code editor's note to section 12.10 at end of this Supplement

Amended

218.100 Central warehouse and supply depot. The department of human services shall establish a fund for maintaining and operating a central warehouse as a supply depot and distribution facility for surplus government products, carload canned goods, paper products, other staples and such other items as determined by the department. The fund shall be permanent and shall be composed of the receipts from the sales of merchandise, recovery of handling, operating and delivery charges of such merchandise and from the funds contributed by the institutions now in a contingent fund being used for this purpose. All claims for purchases of merchandise, operating and salary expenses shall be subject to the provisions of sections 218.86 to 218.89.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 218A

INTERSTATE MENTAL HEALTH COMPACT

218A.2 Administrator. Pursuant to the compact, the director of the division of mental health, mental retardation, and developmental disabilities of the department of human services shall be the compact administrator. The compact administrator may co-operate with all departments, agencies and officers of this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement entered into by this state under the compact.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

218A.4 Payments. The compact administrator, subject to the approval of the commissioner of the department of human services, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 218B

INTERSTATE CORRECTIONS COMPACT

218B.3 Duty of director. The director of the Iowa department of corrections shall do all things necessary or incidental to the carrying out of the compact.

(83 Acts, ch 96, § 70, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 219

VETERANS HOME

219.7 Commandant. The commissioner of human services shall appoint a commandant who shall serve as the chief executive of the home and who shall have the immediate custody and control, subject to the orders of the commissioner or the commissioner's designee, of all property used in connection with the home.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

219.24 "Director" defined. The term "director" or "state director" means the director of the division of child and family services of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 220

IOWA HOUSING FINANCE AUTHORITY

220.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Authority*" means the Iowa housing finance authority established in section 220.2.

2. "*Low or moderate income families*" means families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use, and includes, but is not limited to, elderly families, families in which one or more persons are handicapped or disabled, lower income families and very low income families.

3. "*Lower income families*" means families whose incomes do not exceed eighty percent of the median income for the area with adjustments for the size of the family or other adjustments necessary due to unusual prevailing conditions in the area, and includes, but is not limited to, very low income families.

4. "*Very low income families*" means families whose incomes do not exceed fifty percent of the median income for the area, with adjustments for the size of the family or other adjustments necessary due to unusual prevailing conditions in the area.

5. "*Elderly families*" means families of low or moderate income where the head of the household or his or her spouse is at least sixty-two years of age or older, or the surviving member of any such tenant family.

6. a. "*Families*" includes but is not limited to families consisting of a single adult person who is primarily responsible for his or her own support, is at least sixty-two years of age, is disabled, is handicapped, is displaced, or is the remaining member of a tenant family.

b. "*Families*" includes but is not limited to two or more persons living together who are at least sixty-two years of age, are disabled, or are handicapped, or one or more such individuals living with another person who is essential to such individual's care or well-being.

7. "*Disabled*" means unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment.

8. "*Handicapped*" means having a physical or mental impairment which is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of a nature that the ability to live independently could be improved by more suitable housing conditions.

9. "*Displaced*" means displaced by governmental action, or by having one's dwelling extensively damaged or destroyed as a result of a disaster.

10. "*Income*" means income from all sources of each member of the household,

with appropriate exceptions and exemptions reasonably related to an equitable determination of the family's available income, as established by rule of the authority.

11. *a. "Housing"* means single family and multifamily dwellings, and facilities incidental or appurtenant to the dwellings, and includes group homes of fifteen beds or less licensed as health care facilities or child foster care facilities and modular or mobile homes which are permanently affixed to a foundation and are assessed as realty.

b. "Adequate housing" means housing which meets minimum structural, heating, lighting, ventilation, sanitary, occupancy and maintenance standards compatible with applicable building and housing codes, as determined under rules of the authority.

12. *"Health care facilities"* means those facilities referred to in section 135C.1, subsection 4, which contain fifteen beds or less.

13. *"Mortgage"* means a mortgage, mortgage deed, deed of trust, or other instrument creating a first lien, subject only to title exceptions acceptable to the authority, on a fee interest in real property which includes completed housing located within this state, or on a leasehold on such a fee interest which has a remaining term at the time of computation that exceeds by not less than ten years the maturity date of the mortgage loan.

14. *"Mortgage lender"* means any bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any governmental agency, or any other financial institution authorized to make mortgage loans in this state and includes a financial institution as defined in section 496B.2, subsection 2, which lends moneys for industrial or business purposes.

15. *"Mortgage loan"* means a financial obligation secured by a mortgage.

16. *"Bond"* means a bond issued by the authority pursuant to sections 220.26 to 220.30.

17. *"Note"* means a bond anticipation note or a housing development fund note issued by the authority pursuant to this chapter.

18. *"State agency"* means any board, commission, department, public officer, or other agency of the state of Iowa.

19. *"Housing program"* means any work or undertaking of new construction or rehabilitation of one or more housing units, or the acquisition of existing residential structures, for the provision of housing, which is financed pursuant to the provisions of this chapter for the primary purpose of providing housing for low or moderate income families. A housing program may include housing for other economic groups as part of an overall plan to develop new or rehabilitated communities or neighborhoods, where housing low or moderate income families is a primary goal. A housing program may include any buildings, land, equipment, facilities, or other real or personal property which is necessary or convenient in connection with the provision of housing, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities, such as administrative, community, health, recreational, educational, and commercial facilities, as the authority determines to be necessary or convenient in relation to the purposes of this chapter.

20. *"Housing sponsor"* means any individual, joint venture, partnership, limited partnership, trust, corporation, housing co-operative, local public entity, governmental unit, or other legal entity, or any combination thereof, approved by the authority or pursuant to standards adopted by the authority as qualified to either own, construct, acquire, rehabilitate, operate, manage or maintain a housing program, whether for profit, nonprofit or limited profit, subject to the regulatory powers of the authority and other terms and conditions set forth in this chapter.

21. *"Dilapidated"* means decayed, deteriorated or fallen into partial disuse through neglect or misuse.

22. *"Property improvement loan"* means a financial obligation secured by collat-

eral acceptable to the authority, the proceeds of which shall be used for improvement or rehabilitation of housing which is deemed by the authority to be substandard in its protective coatings or its structural, plumbing, heating, cooling, or electrical systems; and regardless of the condition of the property the term "property improvement loan" may include loans to increase the energy efficiency of housing or to finance solar or other renewable energy systems for use in that housing.

23. When used in the context of an assumption of a loan, "assume" or "assumed" means any type of transaction involving the sale or transfer of an ownership interest in real estate financed by the authority, whether the conveyance involves a transfer by deed or real estate contract or some other device.

24. "Child foster care facilities" means the same as defined in section 237.1.

25. "Cost" as applied to Iowa small business loan program projects means the cost of acquisition, construction, or both including the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition, construction, or both. It also means the cost of demolishing or removing structures on acquired land, the cost of access roads to private property, including the cost of land or easements, and the cost of all machinery, furnishings, and equipment, financing charges, and interest prior to and during construction and for no more than eighteen months after completion of construction. Cost also means the cost of engineering, legal expenses, plans, specifications, surveys, estimates of cost and revenues, as well as other expenses incidental to determining the feasibility or practicability of acquiring or constructing a project. It also means other expenses incidental to the acquisition or construction of the project, the financing of the acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of bonds, to be paid into any special funds from the proceeds of the bonds, and the financing of the placing of a project in operation.

26. "Project" means real or personal property connected with a facility to be acquired, constructed, improved, or equipped, with the aid of the Iowa small business loan program as provided in sections 220.61 to 220.65.

27. "Iowa small business loan program" or "loan program" means the program for lending moneys to small business established under sections 220.61 to 220.65.

28. "Small business" means a business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

a. It is not an affiliate or subsidiary of a business dominant in its field of operation.

b. It has either twenty or fewer full-time equivalent positions or not more than the equivalent of one million dollars in annual gross revenues in the preceding fiscal year.

c. It does not involve the operation of a farm and does not involve the practice of a profession.

For purposes of this definition "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than one million dollars in annual gross revenues, and "affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

The authority may, by resolution, waive any or all of the requirements of paragraph "b" in connection with a loan to a small business, as defined under applicable federal law and regulations that have been enacted or adopted by April 1, 1983, in which federal assistance, insurance or guaranties are sought.

29. "Mortgage-backed security" means a security issued by the authority which is secured by residential mortgage loans owned by the authority.

30. "Residential mortgage interest reduction program" means the program for

buying-down interest rates on residential mortgage loans pursuant to sections 220.81 through 220.84.

31. "*Residential mortgage loan*" means a financial obligation secured by a mortgage on a single- family or two-family home.

32. "*Residential mortgage marketing program*" means the program for buying and selling residential mortgage loans and the selling of mortgage-backed securities pursuant to sections 220.71 through 220.73.

The authority shall establish by rule further definitions applicable to this chapter, and clarification of the definitions in this section, as necessary to assure eligibility for funds available under federal housing laws.

(83 Acts, ch 124, § 1, 2) SF 223

NEW unnumbered paragraph added to subsection 28

NEW subsections 29-32

220.3 Legislative findings. The general assembly finds and declares as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare, and for the promotion of the economy, which are public purposes.

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

3. There exists a serious shortage of safe and sanitary residential housing available to low or moderate income families.

4. This shortage is conducive to disease, crime, environmental decline and poverty and impairs the economic value of large areas, which are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes and are a menace to the health, safety, morals and welfare of the citizens of the state.

5. These conditions result in a loss in population and further deterioration, accompanied by added costs to communities for creation of new public facilities and services elsewhere.

6. One major cause of this condition has been recurrent shortages of funds in private channels.

7. These shortages have contributed to reductions in construction of new residential units, and have made the sale and purchase of existing residential units a virtual impossibility in many parts of the state.

8. The ordinary operations of private enterprise have not in the past corrected these conditions.

9. A stable supply of adequate funds for residential financing is required to encourage new housing and the rehabilitation of existing housing in an orderly and sustained manner and to reduce the problems described in this section.

10. It is necessary to create a state housing finance authority to encourage the investment of private capital and stimulate the construction and rehabilitation of adequate housing through the use of public financing.

11. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned or granted.

12. The interest costs paid by group homes of fifteen beds or less licensed as health care facilities or child foster care facilities for facility acquisition and indirectly reimbursed by the department of human services through payments for patients at those facilities who are recipients of medical assistance or state supplementary assistance are severe drains on the state's budget. A reduction in these costs obtained through financing with tax-exempt revenue bonds would clearly be in the public interest.

13. There is a need in areas of the state for new construction of certain group homes of fifteen beds or less licensed as health care facilities or child foster care facilities to provide adequate housing and care for elderly and handicapped Iowans and to provide adequate housing and foster care for children.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 12 amended

220.10 Surplus moneys — loan and grant fund.

1. All moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority, or to accumulate necessary operating or loss reserves, shall be used by the authority to pay administrative expenses of or provide loans to the Iowa family farm development authority in connection with the programs authorized in the Iowa family farm development Act*, to provide grants, subsidies, and services to lower income families and very low income families through any of the programs authorized in this chapter, or to provide funds for the residential mortgage interest reduction program established pursuant to section 220.81.

2. The authority may establish a loan and grant fund which may be comprised of the proceeds of appropriations, grants, contributions, surplus moneys transferred as provided in this section and repayment of authority loans made from such fund.

(83 Acts, ch 124, § 3) SF 223

*Chapter 175

Subsection 1 amended

220.26 Bonds and notes.

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of five hundred million dollars plus a total of fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37 and to finance loans to provide solar and other renewable energy systems for and to increase the energy efficiency of small businesses under the Iowa small business loan program. One hundred million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

2. Bonds and notes issued by the authority are payable solely and only out of the moneys, assets, or revenues of the authority, and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets or revenues. Bonds or notes are not an obligation of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority payable solely and only from the sources provided in this chapter, and the authority may not pledge the credit or taxing power of this state or any political subdivision of this state other than the authority, or make its debts payable out of any moneys except those of the authority.

3. The maximum amount of bonds and notes issued by the authority which may be outstanding at any time shall be set by statute. Bonds and notes must be authorized by a resolution of the authority. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

4. Bonds shall:

a. State the date and series of the issue, be consecutively numbered, and state on their face that they are payable both as to principal and interest solely out of the assets of the authority and do not constitute an indebtedness of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limit.

b. Be either registered, registered as to principal only, or in coupon form, issued

in denominations as the authority prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the chairman or vice chairman, attested by the manual or facsimile signature of the secretary, have impressed or imprinted thereon the seal of the authority or a facsimile of it, and the coupons attached shall be signed with the facsimile signature of the chairman or vice chairman, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places, and with reserved rights of prior redemption, as the authority prescribes, be sold at prices, at public or private sale, and in a manner as the authority prescribes, and the authority may pay all expenses, premiums and commissions which it deems necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions and covenants providing for the payment of the principal, redemption premiums, if any, interest and other terms, conditions, covenants and protective provisions safeguarding payment, not inconsistent with this chapter, as are found to be necessary by the authority for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the bonds as to:

(1) Pledging or creating a lien, to the extent provided by the resolution, on moneys or property of the authority or moneys held in trust or otherwise by others to secure the payment of the bonds.

(2) Providing for the custody, collection, securing, investment and payment of any moneys of or due to the authority.

(3) The setting aside of reserves or sinking funds and the regulation or disposition of them.

(4) Limitations on the purpose to which the proceeds of sale of an issue of bonds then or thereafter to be issued may be applied.

(5) Limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds.

(6) The procedure by which the terms of a contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which consent may be given.

(7) The creation of special funds into which moneys of the authority may be deposited.

(8) Vesting in a trustee properties, rights, powers and duties in trust as the authority determines, which may include the rights, powers and duties of the trustee appointed for the holders of any issue of bonds pursuant to section 220.28, in which event the provisions of that section authorizing appointment of a trustee by the holders of bonds shall not apply, or limiting or abrogating the right of the holders of bonds to appoint a trustee under that section, or limiting the rights, duties and powers of the trustee.

(9) Defining the acts or omissions which constitute a default in the obligations and duties of the authority and providing for the rights and remedies of the holders of bonds in the event of a default. However, rights and remedies shall be consistent with the laws of this state and other provisions of this chapter.

(10) Any other matters which affect the security and protection of the bonds and the rights of the holders.

5. The authority may issue its bonds for the purpose of refunding any bonds or notes of the authority then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this chapter. The interest, income and profits earned or realized

on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the authority for use by it in any lawful manner. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

6. The authority may issue negotiable bond anticipation notes and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the authority not otherwise pledged, or from the proceeds of the sale of bonds of the authority in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the authority. Notes shall be issued in the same manner as bonds, and notes and the resolution authorizing them may contain any provisions, conditions or limitations, not inconsistent with the provisions of this subsection, which the bonds or a bond resolution of the authority may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders shall have all the remedies provided in this chapter for bondholders. Notes shall be as fully negotiable as bonds of the authority.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under sections 554.9101 to 554.9507, article 9 of the uniform commercial code, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Neither the members of the authority nor any person executing its bonds, notes or other obligations shall be liable personally on the bonds, notes, or other obligations or be subject to any personal liability or accountability by reason of the issuance of the authority's bonds or notes.

9. The authority may make or participate in the making of loans to housing sponsors to provide interim construction financing for the construction or rehabilitation of adequate housing for low or moderate income persons or families, elderly persons or families, and persons or families which include one or more persons who are handicapped or disabled, and of noninstitutional residential care facilities. An interim construction loan may be made under this section only if the loan is the subject of a commitment from an agency or instrumentality of the United States government or from the authority, to provide long-term financing for the mortgage loan and interim construction advances made under the interim construction loan will be insured or guaranteed by an agency or instrumentality of the United States government.

(83 Acts, ch 124, § 4) SF 223
Subsection 1 amended

220.51 Additional loan program.

1. The authority may enter into a loan agreement with a housing sponsor to finance in whole or in part the acquisition of housing by construction or purchase. The repayment obligation of the housing sponsor may be unsecured, secured by a mortgage or security agreement, or secured by other security as the authority deems advisable, and may be evidenced by one or more notes of the housing sponsor. The loan agreement may contain terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the

repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the housing sponsor.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the agreement or instrument, the payment or performance may be enforced in accordance with the provisions contained in the agreement or instrument.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

3. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the housing sponsor, and that the principal and interest does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

(83 Acts, ch 124, § 5) SF 223

Subsection 4 amended

220.62 Small business loan program.

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which shall be used to make program loans. The principal amount of bonds and notes that may be issued pursuant to the loan program and the principal amount of the bonds and notes issued which shall be counted as a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time are as provided in section 220.26, subsection 1. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

2. The authority may contract with the Iowa business development credit corporation or any other corporation organized under chapter 496B for the provision by the corporation of lending and other administrative services relative to the loan program to the authority.

(83 Acts, ch 124, § 6) SF 223

Subsection 1 amended

220.71 Residential mortgage marketing program. The authority shall establish a program to assist lenders to sell residential mortgage loans in the organized and unorganized secondary mortgage market. The authority may issue taxable and tax-exempt bonds and notes. The proceeds of the bonds shall be used to purchase residential mortgage loans from lenders. The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 220.26, subsection 1. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

(83 Acts, ch 124, § 7) SF 223
NEW section

220.72 Powers.

1. The authority may purchase, and make advance commitments to purchase, residential mortgage loans from mortgage lenders at prices and upon terms and conditions it determines subject to this section. However, the total purchase price for all residential mortgage loans which the authority commits to purchase from a mortgage lender at any one time shall not exceed the total of the unpaid principal balances of the residential mortgage loans purchased. Mortgage lenders are authorized to sell residential mortgage loans to the authority in accordance with this section and the rules of the authority. The authority may charge a mortgage lender a commitment fee or other fees as set by rule as a condition for the authority purchasing residential mortgage loans.

2. The authority may sell or make advanced commitments to sell residential mortgage loans in the organized or unorganized secondary mortgage market. The authority may issue and sell securities that are secured by residential mortgage loans held by the authority. The authority may aggregate the residential mortgage loans sold in the secondary market or used as security on the mortgage-backed securities. The amount of mortgage-backed securities sold shall not exceed principal of the mortgages retained by the authority as security.

3. The authority may require as a condition of purchase of a residential mortgage loan from a mortgage lender that the mortgage lender represent and warrant to the authority that:

a. The unpaid principal balance of the residential mortgage loan and the interest rate on it have been accurately stated to the authority.

b. The amount of the unpaid principal balance is justly due and owing.

c. The mortgage lender has no notice of the existence of a counterclaim, offset, or defense asserted by the mortgagor or the mortgagor's successor in interest.

d. The residential mortgage loan is evidenced by a bond or promissory note and a mortgage which has been properly recorded with the appropriate public official.

e. The mortgage constitutes a valid first lien on the real property described in the mortgage to the authority subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements on it.

f. The mortgagor is not now in default in the payment of an installment of principal or interest, escrow funds, real property taxes, or otherwise in the performance of obligations under the mortgage documents and has not to the knowledge of the mortgage lender been in default in the performance of an obligation under the mortgage for a period of longer than sixty days during the life of the mortgage.

g. The improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized to issue policies in this state and providing fire and extended coverage in amounts as the authority prescribes by rule.

h. The residential mortgage loan meets the prevailing investment quality standards for residential mortgage loans in this state.

(83 Acts, ch 124, § 8) SF 223
NEW section

220.73 Rules. The authority shall adopt rules pursuant to chapter 17A relating to the purchase and sale of residential mortgage loans and the sale of mortgage-backed securities. The rules shall provide at least for the following:

1. Procedures for the submission by mortgage lenders to the authority of offers to sell mortgage loans.
2. Standards for allocating bond proceeds among mortgage lenders offering to sell mortgage loans to the authority.
3. Standards for determining the aggregate principal amount of mortgage loans to be purchased from each mortgage lender and the purchase price.
4. Schedules of fees and charges to be imposed by the authority.
5. Procedures for issuing mortgage-backed securities.

(83 Acts, ch 124, § 9) SF 223

NEW section

220.81 Residential mortgage interest reduction program.

1. The authority shall initiate a residential mortgage interest reduction program to reduce the interest costs on groups of mortgage loans. The authority shall use the money specially appropriated to operate this program, and the authority may use moneys declared to be surplus as provided in section 220.10, subsection 1, or moneys obtained from grants, gifts, bequests, contributions, and other uncommitted funds to operate this program.

2. Each mortgage loan included in this program shall be for the purpose of acquiring a single-family dwelling to be occupied by the owner of that dwelling, or a two-family dwelling where the owner will occupy one of the units. The authority shall adopt rules establishing the maximum purchase prices for both single-family dwellings and two-family dwellings in order to be included in a particular group of mortgages. These maximum purchase prices shall not exceed the maximum prices established by section 103A, Internal Revenue Code of 1954. These rules shall only apply to mortgages financed from the sale of tax-exempt bonds.

3. The interest reduction established by the authority for a group of loans shall meet the requirements of this subsection. The interest rate of a loan shall be reduced for a period not to exceed five years. The interest rate of a loan during the first year shall be reduced by not less than three percent and not more than five percent. The amount of the reduction in the interest rate of the loan in each subsequent year of the reduction period, if there are any subsequent years, shall be equal to the percent reduction in the first year multiplied times a fraction which has as its denominator the total number of years of the interest reduction period and has as its numerator the number of years remaining in the interest reduction period at the beginning of the subsequent year. For purposes of this subsection the first year of the interest reduction period starts on the date the loan is closed and ends eleven months after the date of the first monthly payment.

4. The authority shall implement this program by allocating a specified amount of money to reduce the interest rate on some or all of the mortgage loans purchased. The authority shall pay for the interest reduction on a group of loans to mortgage lenders, mortgage purchasers, or investors at the same time that it purchases that group of loans. For each bond issue using this program the authority shall establish the interest rate reductions it will purchase, the amount the authority will pay for the interest rate reductions, and the method of determining which of the eligible loans will be reduced.

(83 Acts, ch 124, § 10) SF 223

NEW section

220.82 Lien. The authority shall file a lien on the property for which an interest reduction payment is made in the amount of the payment. The lien shall be filed in the recorder's office of the county in which the property is located.

(83 Acts, ch 124, § 11) SF 223

NEW section

220.83 Recapture of interest reduction payment.

1. A mortgagor shall repay the authority the lesser of the amount of interest reduction payment actually paid by the authority on behalf of the mortgagor or fifty percent of the net appreciation of the property. The term "*net appreciation of the property*" as used in this section means an increase in the value of the property over the purchase price less the reasonable costs of sale and the reasonable costs of improvements made to the property.

2. Repayment shall be made when any of the following occur:

a. The mortgagor sells or otherwise transfers the property. However, repayment is not required if the transfer is to the surviving spouse of the mortgagor upon the mortgagor's death.

b. The mortgagor rents the property for more than twelve months.

c. The mortgagor requests the authority to release the lien on the property.

d. The mortgage lender files a court action to foreclose on the mortgage. However, the authority may abate payment pending the outcome of the foreclosure action.

(83 Acts, ch 124, § 12) SF 223

NEW section

220.84 Rules. The authority shall adopt rules pursuant to chapter 17A for the administration of the residential mortgage interest reduction program. The rules shall include, but are not limited to, the following:

1. Standards for eligibility of a mortgagor including a minimum down payment or interest in the property.

2. Standards for the eligibility of the property.

3. Procedures for application to participate in the program.

4. Procedures for payment of the interest reduction payment to the mortgage lender or mortgage investor.

5. Standards for determining the amount of interest reduction that will be approved.

6. Schedules of fees and charges to be imposed by the authority.

(83 Acts, ch 124, § 13) SF 233

NEW section

CHAPTER 220A

INTERAGENCY INFORMATION SERVICE ON MENTALLY HANDICAPPED

220A.2 Definitions. When used in this chapter, unless the context otherwise requires:

1. "*Service*" means the interagency case information service.

2. "*Public agency*" means any agency, department, board, commission, or division of the state of Iowa or the United States, any political subdivision of or school board in the state of Iowa, any state of the United States, and the District of Columbia.

3. "*Private agency*" means any individual and any nonprofit or business organization authorized under the laws of Iowa.

4. "*Department*" means the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 4 amended

220A.3 Administrative agency. The department of human services is hereby designated as the administrative agency to provide for a central data control and exchange agency known as the interagency case information service.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

220A.4 Agencies involved. The service shall receive from and make available to the following state agencies case information on persons believed to be mentally handicapped: The state department of health, the state department of public instruction, the state board of regents, and the state department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 221

MENTAL RETARDATION COMPREHENSIVE PLAN

221.1 State agency. The director of mental health, mental retardation, and developmental disabilities of the state department of human services is designated as the single state agency to act as the administrative agency to provide for the continuation of comprehensive planning to combat mental retardation.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

221.2 Staff. The division of mental health, mental retardation, and developmental disabilities of the state department of human services shall employ the staff necessary for the purposes of interpretation, evaluation, and dissemination of Iowa's Comprehensive Plan to Combat Mental Retardation and to carry on needed research.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

221.3 Aids and grants received. The director of mental health, mental retardation, and developmental disabilities of the state department of human services may apply for and receive federal aids, grants, and gifts for purposes relating to mental retardation.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 222

MENTALLY RETARDED PERSONS

222.2 Definitions. When used in this chapter, unless the context otherwise requires:

1. "*Hospital-schools*" means the Glenwood state hospital-school and the Woodward state hospital-school.

2. "*Special unit*" means a special mental retardation unit established at a state mental health institute pursuant to sections 222.88 to 222.91.

3. "*Director*" or "*state director*" means the director of the division of mental health, mental retardation, and developmental disabilities of the department of human services.

4. "*Superintendents*" means the superintendents of the state hospital-schools.

5. "*Mental retardation*" or "*mentally retarded*" means a term or terms to describe children and adults who as a result of inadequately developed intelligence are significantly impaired in ability to learn or to adapt to the demands of society.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

222.7 Transfers. The state director may transfer patients from one state hospital-school to the other and may at any time transfer patients from the hospital-schools to the hospitals for the mentally ill, or transfer patients in the hospital-

schools to a special unit or vice versa. The state director may also transfer patients from a hospital for the mentally ill to a hospital-school if:

1. In the case of a patient who entered the hospital for the mentally ill voluntarily, consent is given in advance by the patient or, if the patient is a minor or is incompetent, the person responsible for the patient.

2. In the case of a patient hospitalized pursuant to sections 229.6 to 229.15, the consent of the court which hospitalized the patient is obtained in advance, rather than afterward as otherwise permitted by section 229.15, subsection 3.

(83 Acts, ch 96, § 71, 159) SF 464
Effective October 1, 1983
Unnumbered paragraph 1 amended

222.10 Duty of peace officer. When any mentally retarded person departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the state director. The state director shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the state director or by the director of the division of child and family services of the department of human services. The provisions of this section relating to the state director shall also apply to the return of other nonresident mentally retarded persons having legal settlement outside the state of Iowa.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

222.13 Voluntary admissions. The parent, guardian, or other person responsible for any person believed to be mentally retarded within the meaning of this chapter may on behalf of such person request the county board of supervisors or their designated agent to apply to the superintendent of any state hospital-school for the voluntary admission of such person either as an inpatient or an outpatient of the hospital-school. After determining the legal settlement of such person as provided by this chapter, the board of supervisors shall, on forms prescribed by the state director, apply to the superintendent of the hospital-school in the district for the admission of such person to the hospital-school. An application for admission to a special unit of any person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the parent, guardian, or other person responsible for the handicapped person. The superintendent shall accept the application providing a preadmission diagnostic evaluation confirms or establishes the need for admission, except that no application may be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

If the hospital-school has no appropriate program for the treatment of such persons, the board of supervisors shall arrange for the placement of the persons in any public or private facility within or without the state, approved by the commissioner of the department of human services, which offers appropriate services for such persons.

Upon applying for admission of a person to a hospital-school, or a special unit, the board of supervisors shall make a full investigation into the financial circumstances of that person and those liable for his or her support under section 222.78, to determine whether or not any of them are able to pay the expenses arising out of the admission of the person to a hospital-school or special treatment unit. If the board finds that the person or those legally responsible for him or her are presently unable to pay such expenses, they shall direct that the expenses be paid by the county. The board may review its finding at any subsequent time while the person remains at the hospital-school, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the board finds upon review that that

person or those legally responsible for him or her are presently able to pay such expenses, that finding shall apply only to the charges so incurred during the period beginning on the date of the review and continuing thereafter, unless and until the board again changes its finding. If the board finds that the person or those legally responsible for him are able to pay the expenses, they shall direct that the charges be so paid to the extent required by section 222.78, and the county auditor shall be responsible for the collection thereof.

(83 Acts, ch 96, § 157, 159) SF 464
Unnumbered paragraph 2 amended

222.31 Guardianship or commitment. If in the opinion of the court, or of a commission as authorized in section 222.28, the person is mentally retarded within the meaning of this chapter and the court determines that it will be conducive to the welfare of such person and of the community to place the person under guardianship, or to commit the person to some proper institution for treatment, training, instruction, care, habilitation, and support, the court shall by proper order:

1. Appoint a guardian of the person of such person, provided no such guardian has already been appointed.

2. Commit the person to any public or private facility within or without the state, approved by the commissioner of the department of human services. If the person has not been examined by a commission as appointed in section 222.28, the court shall, prior to issuing an order of commitment, appoint such a commission to examine the person for the purpose of determining the mental condition of the person. No order of commitment shall be issued unless the commission shall recommend that such order be issued and the private institution to which the person is to be committed shall advise the court that it is willing to receive the person.

3. Commit the person to the state hospital-school designated by the director to serve the county in which the hearing is being held, or to a special unit. The court shall prior to issuing an order of commitment request that a diagnostic evaluation of the person be made by the superintendent of the hospital-school or the special unit, or the superintendent's qualified designee. The evaluation shall be conducted at a place as the superintendent may direct. The cost of the evaluation shall be defrayed by the county of legal settlement unless otherwise ordered by the court. The cost may be equal to but shall not exceed the actual cost of the evaluation. Persons referred by a court to a hospital-school or the special unit for diagnostic evaluation shall be considered as outpatients of the institution. No order of commitment shall be issued unless the superintendent of the institution recommends that the order be issued, and advises the court that adequate facilities for the care of the person are available.

4. The court shall examine the report of the county attorney filed pursuant to section 222.13, and if the report shows that neither the person nor those liable for his or her support under section 222.78 are presently able to pay the charges rising out of the person's care in the hospital-school, or special treatment unit, shall enter an order stating that finding and directing that the charges be paid by the person's county of residence. The court may, upon request of the board of supervisors, review its finding at any subsequent time while the person remains at the hospital-school, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the court finds upon review that the person or those legally responsible for him or her are presently able to pay such expenses, that finding shall apply only to the charges incurred during the period beginning on the date of the board's request for the review and continuing thereafter, unless and until the court again changes its finding. When the court finds that the person, or those liable for his or her support, are able to pay the charges, the court shall enter an order directing that the charges be so paid to the extent required by section 222.78.

(83 Acts, ch 96, § 157, 159) SF 464
Subsection 2 amended
(83 Acts, ch 123, § 81, 209) HF 628
Subsection 3 amended

222.59 Superintendent may return patient.

1. The superintendent of a hospital-school or a special unit may, on application of the parent or guardian, return a patient to the parent or guardian. The superintendent in co-operation with other social agencies under the supervision of the Iowa department of human services may arrange for the patient to be placed at an appropriate health care facility licensed under chapter 135C or at some other appropriate facility, which may include a foster home or group home, either under an arrangement which involves full-time responsibility for the patient by such facility, or as part of an arrangement under which the patient is to participate in one or more educational, developmental or employment programs conducted by other responsible persons, agencies or facilities. Such return or placement may be made at any time, even though the patient was committed by a court, upon recommendation of the professional staff of the hospital-school or special unit that the patient is unlikely to benefit from further treatment, training, instruction, or care at the institution or is likely to improve his life status in an alternate facility.

2. In planning for the placement of a patient outside the hospital-school or special unit, it shall be the superintendent's responsibility to arrange for representation of the patient's interest by the patient's parent or legal guardian. If the patient has no living parent and no legal guardian other than the department or one of its officers or employees, the superintendent shall request some person who has demonstrated by prior activities an informed concern for the welfare and habilitation of the mentally retarded, and who is not an officer or employee of the department nor of any agency or facility which is a party to the arrangement for placement of the patient, to act as the patient's advocate. The superintendent may request some such person to serve as advocate for a patient who has no legal guardian if either or both of the patient's parents are living but are deemed unlikely to or have shown themselves unable to represent the patient's interest effectively due to physical or mental infirmity, residence outside the state at such a distance as to make their effective participation unfeasible, or lack of interest demonstrated by refusal to participate in planning for the patient's placement or by failure to respond within thirty days to a letter sent by restricted certified mail to the last known address of the parent or parents.

3. Each proposed placement shall be reported to the state director, who may approve, modify, alter, or rescind the action if deemed necessary. In so doing, the superintendent of the hospital-school or special unit involved shall certify in writing to the state director that there has been compliance with subsection 2 and that the patient's parent, guardian or advocate is or is not satisfied with the proposed placement, as the case may be. In the latter case, the state director shall afford the parent, guardian or advocate an opportunity to explain objections to the proposed placement and, if he decides to approve the proposed placement despite such objection, shall advise the parent, guardian or advocate of his right to appeal the decision pursuant to subsection 4.

4. If a proposed placement of a patient from a hospital-school or special unit which is not satisfactory to the patient's parent, guardian or advocate is approved by the state director; or a proposed placement which is satisfactory to the patient's parent, guardian or advocate is modified, altered or rescinded by the state director, the parent, guardian or advocate may appeal to the department of human services, within thirty days after notification to the parent, guardian or advocate of the proposed placement. The department shall give the appellant reasonable notice and opportunity for a fair hearing, conducted by the commissioner or his designee who shall act as an impartial arbiter of fact and law. In such hearing the parent, guardian or advocate shall have the opportunity to confront witnesses, to have access to hospital records, to present evidence and witnesses on their behalf and to be represented by counsel. The standard for such fair hearing shall be to provide "that placement which inures to the best interest of the patient." Judicial review of actions

of the department may be sought in accordance with the terms of the Iowa administrative procedure Act. The department shall furnish the petitioner with a copy of any papers filed by him in support of his position, a transcript of any testimony taken, and a copy of the department's decision. In the district court hearings, the parent, guardian or advocate has the right to be represented by counsel. The court shall, in all cases where the interests of the patient conflict with that of parent, guardian or advocate, appoint counsel as guardian ad litem for the patient. Notwithstanding the terms of the Iowa administrative procedure Act, where a petition is filed for judicial review of a proposed placement, the proposed placement shall be stayed pending the outcome of said review proceeding.

5. Placement of a patient outside of a hospital-school or special unit under this section shall not relieve the Iowa department of human services of continuing responsibility for the welfare of the patient, except in cases of discharge under section 222.15 or 222.43. Unless such a discharge has occurred, the department shall provide for review of each placement arrangement made under this section at least once each year, or not more often than once each six months upon the written request of the patient's parent, guardian or advocate, with a view to ascertaining whether such arrangements continue to satisfactorily meet the patient's current needs.

6. The proposed return or placement of a patient outside a hospital-school or special unit shall be reported to the board of supervisors of the patient's county of legal settlement. The county board may not change a placement or program arranged and approved under this section if state funds are being made available to the county which the county may by law use to pay a portion of the cost of care of the patient so placed, however the board may at any time propose an alternative placement or program to the state director. No such alternative placement or program shall be carried out without the prior written approval of the state director, which shall be granted only after evaluation in the same manner as provided by this section for initial placements from a hospital-school or special unit.

7. When a patient committed by a court is to be returned to the parent or guardian, or placed out from a hospital-school or a special unit as otherwise provided in this section, notice shall be sent to the clerk of the court which committed the patient, and to the board of supervisors of both the patient's county of legal settlement and the county to which the patient is to be released, thirty days prior to the time the patient leaves the hospital-school or special unit.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 1, 4 and 5 amended

222.60 Costs paid by county or state. All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of patients in a state hospital-school for the mentally retarded, or in a special unit, or any public or private facility within or without the state, approved by the commissioner of the department of human services, shall be paid by either:

1. The county in which such person has legal settlement as defined in section 252.16.

2. The state when such person has no legal settlement or when such settlement is unknown.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

222.73 Superintendent to prepare expense schedule.

Limitations; 83 Acts, ch 203, § 6, 7

222.74 Duplicate to county. When certifying to the comptroller amounts to be charged against each county as provided in section 222.73, the superintendent shall send to the county auditor of each county against which the superintendent

has so certified any amount, a duplicate of the certificate. The county auditor upon receipt of the duplicate certificate shall enter it to the credit of the state in the ledger of state accounts, and shall immediately issue a notice to the county treasurer authorizing the treasurer to transfer the amount from the county fund to the general state revenue. The treasurer shall file the notice as authority for making the transfer and shall include the amount transferred in the next remittance of state taxes to the treasurer of state, designating the fund to which the amount belongs.

(83 Acts, ch 123, § 82, 209) HF 628
Amended

222.77 Patients on leave. The cost of support of patients placed on convalescent leave or removed as a habilitation measure from a hospital-school, or a special unit, except when living in the home of a person legally bound for the support of the patient, shall be paid by the county of legal settlement. If the patient has no county of legal settlement, the cost shall be paid from the support fund of the hospital-school or special unit and charged on abstract in the same manner as other state inpatients until the patient becomes self-supporting or qualifies for support under other statutes.

(83 Acts, ch 123, § 83, 209) HF 628
Amended

222.88 Special mental retardation unit. The commissioner of human services may organize and establish a special mental retardation unit at an existing institution which may provide:

1. Psychiatric and related services to mentally retarded children and adults who are also emotionally disturbed or otherwise mentally ill.
2. Specific programs to meet the needs of such other special categories of mentally retarded persons as may be designated by the commissioner.
3. Appropriate diagnostic evaluation services.

(83 Acts, ch 96, § 157, 159) SF 464
Unnumbered paragraph 1 amended

222.92 Revolving fund. Repealed by 83 Acts, ch 191, § 10, 26. HF 184
Moneys revert to general fund June 30, 1983; 83 Acts, ch 191, § 10

222.93 Medical assistance payments. Each hospital-school shall, upon receipt of any payment made under chapter 249A for the care of any patient, segregate in a special account an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated in the special account shall be deposited in the medical assistance fund of the department of human services at the end of each calendar quarter of the fiscal year.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

CHAPTER 223

IOWA SECURITY AND MEDICAL FACILITY

223.1 Institution established. There is established an institution for persons displaying evidence of mental illness or psychosocial disorders and requiring diagnostic services and treatment in a security setting. The institution may also be used for persons only requiring confinement in a security setting. The institution is under the jurisdiction of the Iowa department of corrections and shall be known as the Iowa security and medical facility.

(83 Acts, ch 96, § 72, 159) SF 464
Effective October 1, 1983
Amended

223.2 Superintendent. A superintendent of the Iowa security and medical facility shall be appointed by the director of the Iowa department of corrections with the approval of the board of corrections. The superintendent shall be a reputable and qualified person experienced in the administration of programs for the care and treatment of persons afflicted with mental disorders and have other qualifications the director and board deem necessary.

(83 Acts, ch 96, § 73, 159) SF 464

Effective October 1, 1983

Amended

223.3 Duties. The superintendent shall:

1. Perform all duties required by law and by the director of the Iowa department of corrections not inconsistent with this chapter.
2. Maintain cognizance of and secure the professional care and treatment of each patient.
3. Maintain a complete record on the condition of each patient.
4. Retain custody of all patients, in the manner deemed necessary and in the best interest of the patients subject to the rules of the director of the Iowa department of corrections.

(83 Acts, ch 96, § 74, 159) SF 464

Effective October 1, 1983

Subsections 1 and 4 amended

223.4 Sources of patients. Patients admitted to the facility may originate from the following sources:

1. Residents of an institution under the jurisdiction of the department of human services or the Iowa department of corrections.
2. Commitments by the courts as mentally incompetent to stand trial under section 812.4.
3. Referrals by the courts for psychosocial diagnosis and recommendations as part of the pretrial or presentence procedure or determination of mental competency to stand trial.
4. Mentally ill prisoners from county and city jails for diagnosis, evaluation, or treatment.

Patients from other sources may be admitted providing such admission is not inconsistent with the law and is within the capacity of the facilities and staff to accommodate same.

The director of the Iowa department of corrections may house inmates from any penal institution at the Iowa security and medical facility in order to provide the inmates with either suitable security or medical treatment, or both. Unless an inmate is determined to be mentally ill, the inmate shall not be subjected involuntarily to psychiatric treatment.

(83 Acts, ch 96, § 75, 76, 159) SF 464

Effective October 1, 1983

Subsection 1 and unnumbered paragraph 3 amended

223.5 Admissions in writing only. All admissions to the facility shall be by written application only. Application shall be made by the head of the state institution, agency, governmental body, or court requesting admission to the superintendent of the facility. An application may be denied by the superintendent, with the approval of the director of the Iowa department of corrections, if the admission will result in an overcrowded condition or if adequate staff or facilities are not available.

(83 Acts, ch 96, § 77, 159) SF 464

Effective October 1, 1983

Amended

223.6 Final decision. The decision regarding admission and discharge of patients shall be made by the superintendent of the facility, subject to approval of the director of the Iowa department of corrections.

(83 Acts, ch 96, § 78, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 225 PSYCHIATRIC HOSPITAL

225.21 Vouchers. The person making claim to compensation shall present to the court or judge an itemized sworn statement of the claim, and when the claim for compensation has been approved by the court or judge or clerk, it shall be filed in the office of the county auditor and shall be allowed by the board of supervisors.

(83 Acts, ch 123, § 84, 209) HF 628

Amended

CHAPTER 225C MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES

225C.2 Definitions. As used in this chapter:

1. "*Commission*" means the mental health and mental retardation commission.
2. "*Commissioner*" means the commissioner of human services.
3. "*Department*" means the department of human services.
4. "*Division*" means the division of mental health, mental retardation, and developmental disabilities of the department of human services.
5. "*Director*" means the director of the division of mental health, mental retardation, and developmental disabilities of the department of human services.
6. "*Comprehensive services*" means the mental health services delineated in the annual state mental health plan, and the mental retardation services delineated in the annual state mental retardation plan.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 2, 3, 4 and 5 amended

225C.4 Director's duties.

1. The director shall:
 - a. Prepare and administer state mental health and mental retardation plans for the provision of comprehensive services within the state and prepare and administer the state developmental disabilities plan. The director shall consult with the state department of health, the board of regents or a body designated by the board for that purpose, the office for planning and programming or a body designated by the director of the office for that purpose, the department of public instruction, the department of substance abuse, the department of job service and any other appropriate governmental body, in order to facilitate co-ordination of services provided to mentally ill, mentally retarded, and developmentally disabled persons in this state. The state mental health and mental retardation plans shall be consistent with the state health plan, shall be prepared in consultation with the state health co-ordinating council, and shall incorporate county mental health and mental retardation plans.
 - b. Assist county co-ordinating boards in developing a program for community

mental health and mental retardation services within the state based on the need for comprehensive services, and the services offered by existing public and private facilities, with the goal of providing comprehensive services to all persons in this state who need them.

c. Emphasize the provision of outpatient services by community mental health centers and local mental retardation providers as a preferable alternative to inpatient hospital services.

d. Encourage and facilitate co-ordination of services with the objective of developing and maintaining in the state a mental health and mental retardation service delivery system to provide comprehensive services to all persons in this state who need them, regardless of the place of residence or economic circumstances of those persons.

e. Encourage and facilitate applied research and preventive educational activities related to causes and appropriate treatment for mental illness and mental retardation. The director may designate, or enter into agreements with, private or public agencies to carry out this function.

f. Promote co-ordination of community-based services with those of the state mental health institutes and hospital-schools.

g. Administer state programs regarding the care, treatment, and supervision of mentally ill or mentally retarded persons, except the programs administered by the state board of regents.

h. Administer and control the operation of the state institutions established by chapters 222 and 226, and any other state institutions or facilities providing care, treatment, and supervision to mentally ill or mentally retarded persons, except the institutions and facilities of the state board of regents.

i. Administer the state community mental health and mental retardation services fund established by section 225C.7.

j. Act as compact administrator with power to effectuate the purposes of interstate compacts on mental health.

k. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities.

l. Prepare a division budget and reports of the division's activities.

m. Advise the merit employment commission on recommended qualifications of all division employees.

n. Establish suitable agreements with other state agencies to encourage appropriate care and to facilitate the co-ordination of mental health, mental retardation, and developmental disabilities services.

o. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in co-operation with the judicial system and the care review committees appointed for county care facilities pursuant to section 135C.25.

p. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 222.59.

q. Provide technical assistance to agencies and organizations, to aid them in meeting standards which are established, or with which compliance is required, under statutes administered by the director, including but not limited to chapters 227 and 230A.

r. Recommend and enforce minimum accreditation standards for the maintenance and operation of community mental health centers under section 230A.16.

s. In co-operation with the state department of health, recommend and enforce minimum standards under section 227.4 for the care of and services to mentally ill and mentally retarded persons residing in county care facilities.

t. In co-operation with the state department of health, recommend minimum standards for the maintenance and operation of public or private facilities offering services to mentally ill or mentally retarded persons, which are not subject to licensure by the department or the state department of health.

2. The director may:

a. Apply for, receive, and administer federal aids, grants, and gifts for purposes relating to mental health, mental retardation, and developmental disabilities services or programs.

b. Establish mental health and mental retardation services for all institutions under the control of the commissioner of human services and establish an autism unit, following mutual planning with and consultation from the medical director of the state psychiatric hospital, at an institution or a facility administered by the director to provide psychiatric and related services and other specific programs to meet the needs of autistic persons as defined in section 331.425, subsection 13, paragraph "b", subparagraph (2), and to furnish appropriate diagnostic evaluation services.

c. Establish and supervise suitable standards of care, treatment, and supervision for mentally ill and mentally retarded persons in all institutions under the control of the commissioner of human services.

d. Appoint professional consultants to furnish advice on any matters pertaining to mental health and mental retardation. The consultants shall be paid as provided by an appropriation of the general assembly.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, paragraphs b and c amended

225C.6 Duties of commission.

1. The commission shall:

a. Advise the director on administration of the overall state plans for comprehensive services.

b. Adopt necessary rules pursuant to chapter 17A which relate to mental health and mental retardation programs and services.

c. Adopt standards for accreditation of community mental health centers and comprehensive community mental health programs recommended under section 230A.16.

d. Adopt standards for the care of and services to mentally ill and mentally retarded persons residing in county care facilities recommended under section 227.4.

e. Adopt standards for the delivery of mental health and mental retardation services by the division, and for the maintenance and operation of public or private facilities offering services to mentally ill or mentally retarded persons, which are not subject to licensure by the department or the state department of health, and review the standards employed by the department or the state department of health for licensing facilities which provide services to the mentally ill or mentally retarded persons.

f. Assure that proper appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

g. Award grants from the special allocation of the state community mental health and mental retardation services fund pursuant to section 225C.11, as well as other moneys that become available to the division for grant purposes.

h. Review and rank applications for federal mental health grants prior to submission to the appropriate federal agency.

i. Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law and for changes in the rules adopted by the auditor of state under section 225C.10.

j. Beginning not later than January 1, 1985, and continuing once every two years thereafter, submit to the governor and the general assembly an evaluation of:

(1) The extent to which mental health and mental retardation services stipulated in the state plans are actually available to persons in each county in the state.

(2) The cost effectiveness of the services being provided by each of the state mental health institutes established under chapter 226 and state hospital-schools established under chapter 222.

(3) The cost effectiveness of programs carried out by randomly selected providers receiving money from the state community mental health and mental retardation services fund established under section 225C.7.

k. Advise the director, the council on human services, the governor, and the general assembly on budgets and appropriations concerning mental health and mental retardation services.

l. Meet with the state developmental disabilities planning council at least twice a year for the purpose of co-ordinating mental health, mental retardation, and developmental disabilities planning and funding.

2. Notwithstanding section 217.3, subsection 6, the commission may adopt the rules authorized by subsection 1, pursuant to chapter 17A, without prior review and approval of those rules by the council on human services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1, paragraph k, and subsection 2 amended

CHAPTER 226

STATE MENTAL HEALTH INSTITUTES

Continuation of programs; limitation on acceptance of a child alleged to be a child in need of assistance; 83 Acts, ch 203, sec 5, subsec 2, 5 (SF 532)

226.47 “Director” defined. For the purpose of this chapter “director” or “state director” means the director of the division of mental health, mental retardation, and developmental disabilities of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 227

COUNTY AND PRIVATE HOSPITALS FOR MENTALLY ILL

227.19 “Director” defined. For the purpose of this chapter “director” or “state director” means the director of the division of mental health, mental retardation, and developmental disabilities of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 229

HOSPITALIZATION OF MENTALLY ILL PERSONS

229.1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

1. “*Mental illness*” means every type of mental disease or mental disorder, except that it does not refer to mental retardation as defined in section 222.2, subsection 5.

2. “*Seriously mentally impaired*” or “*serious mental impairment*” describes the condition of a person who is afflicted with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to his or her hospitalization or treatment, and who:

a. Is likely to physically injure himself or herself or others if allowed to remain at liberty without treatment; or

b. Is likely to inflict serious emotional injury on members of his or her family or others who lack reasonable opportunity to avoid contact with the afflicted person if the afflicted person is allowed to remain at liberty without treatment.

3. "*Serious emotional injury*" is an injury which does not necessarily exhibit any physical characteristics, but which can be recognized and diagnosed by a licensed physician or other qualified mental health professional and which can be causally connected with the act or omission of a person who is, or is alleged to be, mentally ill.

4. "*Respondent*" means any person against whom an application has been filed under section 229.6, but who has not been finally ordered committed for full-time custody, care and treatment in a hospital.

5. "*Patient*" means a person who has been hospitalized or ordered hospitalized to receive treatment pursuant to section 229.14.

6. "*Licensed physician*" means an individual licensed under the provisions of chapter 148, 150 or 150A to practice medicine and surgery, osteopathy or osteopathic medicine and surgery.

7. "*Qualified mental health professional*" means an individual experienced in the study and treatment of mental disorders in the capacity of:

a. A psychologist certified under chapter 154B; or

b. A registered nurse licensed under chapter 152; or

c. A social worker who holds a masters degree in social work awarded by an accredited college or university.

8. "*Public hospital*" means:

a. A state mental health institute established by chapter 226; or

b. The state psychiatric hospital established by chapter 225; or

c. Any other publicly supported hospital or institution, or part thereof, which is equipped and staffed to provide inpatient care to the mentally ill, except that this definition is not applicable to the Iowa security and medical facility established by chapter 223.

9. "*Private hospital*" means any hospital or institution not directly supported by public funds, or a part thereof, which is equipped and staffed to provide inpatient care to the mentally ill.

10. "*Hospital*" means either a public hospital or a private hospital.

11. "*Chief medical officer*" means the medical director in charge of any public hospital, or any private hospital, or that individual's physician-designee. Nothing in this chapter shall negate the authority otherwise reposed by law in the respective superintendents of each of the state hospitals for the mentally ill, established by chapter 226, to make decisions regarding the appropriateness of admissions or discharges of patients of that hospital, however it is the intent of this chapter that if the superintendent is not a licensed physician he shall be guided in these decisions by the chief medical officer of that hospital.

12. "*Clerk*" means the clerk of the district court.

13. "*Director*" or "*state director*" means the director of that division of the department of human services having jurisdiction of the state mental health institutes, or that director's designee.

14. "*Chemotherapy*" means treatment of an individual by use of a drug or substance which cannot legally be delivered or administered to the ultimate user without a physician's prescription or medical order.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 13 amended

229.15 Periodic reports required.

1. Not more than thirty days after entry of an order for continued hospitalization of a patient under section 229.14, subsection 2, and thereafter at successive intervals of not more than sixty days continuing so long as involuntary hospitalization of the patient continues, the chief medical officer of the hospital shall report to the court which entered the order. The report shall be submitted in the manner required by section 229.14, shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of

time the patient will be required to remain at the hospital. The chief medical officer may at any time report to the court a finding as stated in section 229.14, subsection 4, and the court shall act thereon as required by that section.

2. Not more than sixty days after the entry of a court order for treatment of a patient under section 229.14, subsection 3, and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section 229.14, subsection 3, unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If at any time the medical director reports to the court that in the director's opinion the patient requires full-time custody, care and treatment in a hospital, and the patient is willing to be admitted voluntarily to the hospital for these purposes, the court may enter an order approving hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized. If the patient is unwilling to be admitted voluntarily to the hospital, the procedure for determining involuntary hospitalization, as set out in section 229.14, subsection 3, shall be followed.

3. When a patient has been placed in a facility other than a hospital pursuant to section 229.14, subsection 4, a report on the patient's condition and prognosis shall be made to the court which so placed the patient, at least once every six months, unless the court authorizes annual reports. A report shall be submitted within fifteen days after the facility in which the patient has been placed is evaluated as required by section 227.2, subsection 4. The court may in its discretion waive the requirement of an additional report between the annual evaluations. If the director exercises the authority to remove residents from a county care facility or other county or private institution under section 227.6, the director shall promptly notify each court which placed in that facility any resident so removed.

4. When in the opinion of the chief medical officer the best interest of a patient would be served by a convalescent or limited leave or by transfer to a different hospital for continued full-time custody, care and treatment, the chief medical officer may authorize the leave or arrange and complete the transfer but shall promptly report the leave or transfer to the court. The patient's attorney or advocate may request a hearing on a transfer. Nothing in this section shall be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of human services.

5. Upon receipt of any report required or authorized by this section the court shall furnish a copy to the patient's attorney, or alternatively to the advocate appointed as required by section 229.19. The court shall examine the report and take the action thereon which it deems appropriate. Should the court fail to receive any report required by this section or section 229.14 at the time the report is due, the court shall investigate the reason for the failure to report and take whatever action may be necessary in the matter.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 4 amended

229.19 Advocate appointed. The district court in each county shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of the mentally ill, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or

treatment to the mentally ill, to act as advocate representing the interests of all patients involuntarily hospitalized by that court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that his or her services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of his or her responsibility in the case and an advocate shall be appointed at the conclusion of the hearing unless the attorney indicates an intent to continue his or her services and the court so directs. If the court directs the attorney to remain on the case he or she shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

1. To review each report submitted pursuant to sections 229.14 and 229.15.
2. If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.
3. To make himself or herself readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.
4. To visit the patient within fifteen days of the patient's commitment and periodically thereafter.
5. To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.
6. To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

The court shall from time to time prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid on order of the court by the county in which the court is located.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

(83 Acts, ch 123, § 85, 209) HF 628

Unnumbered paragraph 3 amended

229.23 Rights and privileges of hospitalized persons. Every person who is hospitalized or detained under this chapter shall have the right to:

1. Prompt evaluation, emergency psychiatric services, and care and treatment as indicated by sound medical practice.
2. The right to refuse treatment by shock therapy or chemotherapy, unless the use of these treatment modalities is specifically consented to by the patient's next of kin or guardian. The patient's right to refuse treatment by chemotherapy shall not apply during any period of custody authorized by section 229.4, subsection 3, section 229.11 or section 229.22, but this exception shall extend only to chemothera-

py treatment which is, in the chief medical officer's judgment, necessary to preserve the patient's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The patient's right to refuse treatment by chemotherapy shall also not apply during any period of custody authorized by the court pursuant to section 229.13 or 229.14. In any other situation in which, in the chief medical officer's judgment, chemotherapy is appropriate for the patient but the patient refuses to consent thereto and there is no next of kin or guardian to give consent, the chief medical officer may request an order authorizing treatment of the patient by chemotherapy from the district court which ordered the patient's hospitalization.

3. In addition to protection of his constitutional rights, enjoyment of other legal, medical, religious, social, political, personal and working rights and privileges which he would enjoy if he were not so hospitalized or detained, so far as is possible consistent with effective treatment of that person and of the other patients of the hospital. If the patient's rights are restricted, the physician's direction to that effect shall be noted on the patient's record. The department of human services shall, in accordance with chapter 17A establish rules setting forth the specific rights and privileges to which persons so hospitalized or detained are entitled under this section, and the exceptions provided by section 17A.2, subsection 7, paragraphs "a" and "k", shall not be applicable to the rules so established. The patient or his or her next of kin or friend shall be advised of these rules and be provided a written copy upon the patient's admission to or arrival at the hospital.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

229.24 Records of involuntary hospitalization proceeding to be confidential.

1. All papers and records pertaining to any involuntary hospitalization or application for involuntary hospitalization of any person under this chapter, whether part of the permanent record of the court or of a file in the department of human services, are subject to inspection only upon an order of the court for good cause shown. Nothing in this section shall prohibit a hospital from complying with the requirements of this chapter and of chapter 230 relative to financial responsibility for the cost of care and treatment provided a patient in that hospital, nor from properly billing any responsible relative or third-party payer for such care and treatment.

2. If authorized in writing by a person who has been the subject of any proceeding or report under sections 229.6 to 229.13 or section 229.22, or by the parent or guardian of that person, information regarding that person which is confidential under subsection 1 may be released to any designated person.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

229.40 Rules for proceedings. Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

(83 Acts, ch 186, § 10053, 10201) SF 495

Struck and rewritten

CHAPTER 230

SUPPORT OF THE MENTALLY ILL

230.15 Personal liability. A mentally ill person and a person legally liable for the person's support remain liable for the support of the mentally ill person as provided in this section. Persons legally liable for the support of a mentally ill person include the spouse of the mentally ill person, any person bound by contract for support of the mentally ill person, and, with respect to mentally ill persons under

eighteen years of age only, the father and mother of the mentally ill person. The county auditor, subject to the direction of the board of supervisors, shall enforce the obligation created in this section as to all sums advanced by the county. The liability to the county incurred by a mentally ill person or a person legally liable for the person's support under this section is limited to an amount equal to one hundred percent of the cost of care and treatment of the mentally ill person at a state mental health institute for one hundred twenty days of hospitalization. This limit of liability may be reached by payment of the cost of care and treatment of the mentally ill person subsequent to a single admission or multiple admissions to a state mental health institute or, if the person is not discharged as cured, subsequent to a single transfer or multiple transfers to a county care facility pursuant to section 227.11. After reaching this limit of liability, a mentally ill person or a person legally liable for the person's support is liable to the county for the care and treatment of the mentally ill person at a state mental health institute or, if transferred but not discharged as cured, at a county care facility in an amount not in excess of the average minimum cost of the maintenance of a physically and mentally healthy individual residing in the individual's own home, which standard shall be established and may from time to time be revised by the department of human services. A lien imposed by section 230.25 shall not exceed the amount of the liability which may be incurred under this section on account of any mentally ill person.

Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost of the care and treatment of any mentally ill person as established by the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

230.20 Statement of charges to counties. The superintendent of each state hospital for the mentally ill established by section 226.1, or his designee, shall for each semiannual period, which shall either begin January 1 or July 1, compute the amounts which are due the state from each county for services rendered by the hospital to patients chargeable to those counties, and shall bill the counties quarterly under subsection 4. Each hospital's charges for services rendered in a semiannual period shall be based on that hospital's expenditures during the immediately preceding semiannual period, and shall be computed as follows:

1. The expenditures of the hospital during a semiannual period shall be separately computed by program in accordance with generally accepted accounting procedures. In so doing, the superintendent or the superintendent's designee shall not include any of the following:

a. The costs of food, lodging and other maintenance provided to persons not patients of the hospital.

b. The costs of certain direct medical services, which shall be charged directly against the patient who received the services. The direct medical services to which this paragraph is applicable shall be specifically identified in rules adopted by the department of human services in accordance with chapter 17A, and may include but need not be limited to X-ray, laboratory and dental services.

c. The cost of outpatient and state placement services, which shall be charged directly against the patient who received the services at a rate to be established by the state director on the basis of the actual cost of the services.

2. The total patient days of service provided during a semiannual period shall be identified and accumulated for each program for which expenditures are separately computed under subsection 1 of this section.

3. The total expenditure during a semiannual period computed for each program pursuant to subsection 1 shall be divided by the total patient days of service provided during the semiannual period by that program, determined pursuant to subsection 2, to derive the average daily patient cost for each program.

4. Each county shall be charged an amount computed as follows:

a. The charges attributable to each inpatient chargeable to that county, calculated by multiplying the average daily patient cost for each program under which the patient was served by the number of days the patient was so served during the calendar quarter, and adding the cost of direct medical services received by the patient during the calendar quarter; and

b. The charges attributable to each outpatient chargeable to that county who was served by the hospital during the calendar quarter, calculated at the cost established under subsection 1, paragraph "c".

5. An individual statement shall be prepared for a patient on or before the fifteenth day of the month next succeeding the month in which that patient leaves the hospital, and a general statement shall be prepared at least quarterly for each county to which charges are made under this section. Except as otherwise required by sections 125.33 and 125.34 the general statement shall list the name of each patient chargeable to that county who was served by the hospital during the preceding month or calendar quarter and the amount due on account of each patient, and the county shall be billed for eighty percent of the stated charge for each patient specified in this subsection. The statement prepared for each county shall be certified by the superintendent of the hospital to the state comptroller and a duplicate statement shall be mailed to the auditor of that county.

6. All or any reasonable portion of the charges incurred for services rendered to any patient, to the most recent date for which the charges have been computed, may be paid at any time by the patient or by any other person on the patient's behalf. Any payment so made, and any federal financial assistance received pursuant to title XVIII or XIX of the United States Social Security Act for services rendered to a patient, shall be credited against the patient's account and, if the charges so paid have previously been billed to a county, reflected in the hospital's next general statement to that county.

(83 Acts, ch 96, § 157, 159) SF 464

Limitation on charges; 83 Acts, ch 203, § 5(5)

Subsection 1, paragraph b amended

230.21 Duty of county auditor and treasurer. The county auditor, upon receipt of the duplicate statement required by section 230.20, shall enter it to the credit of the state in the ledger of state accounts, shall furnish to the board of supervisors a list of the names of the persons so certified, and at once issue a notice authorizing the county treasurer to transfer the amount billed to the county by the statement, from the county to the general state revenue, which notice shall be filed by the treasurer as authority for making the transfer. The auditor shall promptly remit the amount so transferred to the treasurer of state, designating the fund to which it belongs.

(83 Acts, ch 123, § 86, 209) HF 628

Amended

230.31 Departers from other states. When any mentally ill person departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain him without order and shall report such detention to the state director who shall provide for the return of such patient to the authorities of the state where the unauthorized leave was made. Pending such return such patient may be detained temporarily at one of the institutions of this state governed by the state director or any other director of the state department of human services. Expenses incurred under this section shall be paid in the same manner as is provided for transfers in section 230.8.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

230.34 "Director" defined. As used in this chapter, "director" or "state director" means the director of the division of mental health, mental retardation, and developmental disabilities of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 230A

COMMUNITY MENTAL HEALTH CENTERS

230A.1 Establishment and support of community mental health centers. A county or affiliated counties, by action of the board or boards of supervisors, with approval of the director of the division of mental health, mental retardation, and developmental disabilities, may establish a community mental health center under this chapter to serve the county or counties. In establishing the community mental health center, the board of supervisors of each county involved may make a single nonrecurring expenditure, in an amount determined by the board. This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

(83 Acts, ch 123, § 87, 209) HF 628

Amended

230A.10 Powers and duties of trustees. The community mental health center board of trustees shall:

1. Have authority to adopt bylaws and rules for its own guidance and for the government of the center.
2. Employ a director and staff for the center, fix their compensation, and have control over the director and staff.
3. Designate at least one of the trustees to visit and review the operation of the center at least once each month.
4. Procure and pay premiums on insurance policies required for the prudent management of the center, including but not limited to public liability, professional malpractice liability, workers' compensation and vehicle liability, any of which may include as additional insureds the board of trustees and employees of the center.
5. Establish, with approval of the board or joint boards of supervisors of the county or counties served by the center, standards to be followed in determining whether and to what extent persons seeking services from the center shall be considered able to pay the cost of the services received.
6. Establish, with approval of the board or joint boards of supervisors of the county or counties served by the center, policies regarding whether the services of the center will be made available to persons who are not residents of the county or counties served by the center, and if so upon what terms.
7. Purchase or lease a site for the center, and provide and equip suitable quarters for the center.
8. Prepare and approve plans and specifications for all center buildings and equipment, and advertise for bids as required by law for county buildings before making any contract for the construction of any building or purchase of equipment.
9. File with the board of supervisors within thirty days after the close of each budget year, a report covering their proceedings with reference to the center and a statement of all receipts and expenditures during the preceding budget year.
10. Accept property by gift, devise, bequest or otherwise; and, if the board deems it advisable, may, at public sale, sell or exchange any property so accepted upon a concurring vote of a majority of all members of the board of trustees, and apply the

proceeds thereof, or property received in exchange therefor, to the purposes enumerated in subsection 7, or to purchase equipment.

11. There shall be published quarterly in each of the official newspapers of the county as selected by the board of supervisors pursuant to section 349.1 the schedule of bills allowed and there shall be published annually in such newspapers the schedule of salaries paid by job classification and category, but not by listing names of individual employees. The names, addresses, salaries and job classification of all employees paid in whole or in part from public funds shall be a public record and open to inspection at reasonable times as designated by the board of trustees.

12. Recruit, promote, accept and use local financial support for the community mental health center from private sources such as community service funds, business, industrial and private foundations, voluntary agencies and other lawful sources.

13. Accept and expend state and federal funds available directly to the community mental health center for all or any part of the cost of any service the center is authorized to provide.

14. Enter into a contract with an affiliate, which may be an individual or a public or private group, agency, or corporation, organized and operating on either a profit or a nonprofit basis, for any of the services described in section 230A.2, to be provided by the affiliate to residents of the county or counties served by the community mental health center who are patients or clients of the center and are referred by the center to the affiliate for service.

(83 Acts, ch 101, § 41) SF 136

Subsection 14 amended

230A.12 Center organized as nonprofit corporation — agreement with county. Each community mental health center established or continued in operation pursuant to section 230A.3, subsection 2, shall be organized under the Iowa nonprofit corporation Act appearing as chapter 504A, except that a community mental health center organized under chapter 504 prior to July 1, 1974, shall not be required by this chapter to adopt the Iowa nonprofit corporation Act if it is not otherwise required to do so by law. The board of directors of each such community mental health center shall enter into an agreement with the county or affiliated counties which are to be served by the center, which agreement shall include but need not be limited to the period of time for which the agreement is to be in force, what services the center is to provide for residents of the county or counties to be served, standards the center is to follow in determining whether and to what extent persons seeking services from the center shall be considered able to pay the cost of the services received, and policies regarding availability of the center's services to persons who are not residents of the county or counties served by the center. The board of directors, in addition to exercising the powers of the board of directors of a nonprofit corporation may:

1. Recruit, promote, accept and use local financial support for the community mental health center from private sources such as community service funds, business, industrial and private foundations, voluntary agencies, and other lawful sources.

2. Accept and expend state and federal funds available directly to the community mental health center for all or any part of the cost of any service the center is authorized to provide.

3. Enter into a contract with an affiliate, which may be an individual or a public or private group, agency or corporation, organized and operating on either a profit or a nonprofit basis, for any of the services described in section 230A.2, to be provided by the affiliate to residents of the county or counties served by the community mental health center who are patients or clients of the center and are referred by the center to the affiliate for service.

(83 Acts, ch 101, § 42) SF 136

Subsection 3 amended

230A.13 Annual budget. The board of directors of each community mental health center which is organized as a nonprofit corporation shall prepare an annual budget for the center and, when satisfied with the budget, submit it to the auditor or auditors of the county or affiliated counties served by the center, at the time and in the manner prescribed by chapter 24. The budget shall be subject to review by and approval of the board of supervisors of the county which is served by the center or, in the case of a center serving affiliated counties, by the board of supervisors of each county, acting separately, to the extent the budget is to be financed by taxes levied by that county or by funds allocated to that county by the state which the county may by law use to help support the center.

Release of information which would identify an individual who is receiving or has received treatment at a community mental health center shall not be made a condition of support of that center by any county under this section. Section 331.504, subsection 8 notwithstanding, a community mental health center shall not be required to file a claim which would in any manner identify such an individual, if the center's budget has been approved by the county board under this section and the center is in compliance with section 230A.16, subsection 3.

(83 Acts, ch 101, § 43) SF 136

Unnumbered paragraph 2 amended

230A.14 Support of center — federal funds. The board of supervisors of any county served by a community mental health center established or continued in operation as authorized by section 230A.1 may expend money from county funds, federal revenue-sharing funds, or other federal matching funds designated by the board of supervisors for that purpose, without a vote of the electorate of the county, to pay the cost of any services described in section 230A.2 which are provided by the center or by an affiliate under contract with the center, or to pay the cost of or grant funds for establishing, reconstructing, remodeling or improving any facility required for the center. However, the county board shall not expend money from that fund, except for designated revenue-sharing or other federal matching funds, for mental health treatment obtained outside a state institution in an amount exceeding eight dollars per capita in any county having less than forty thousand population.

(83 Acts, ch 123, § 88, 209) HF 628

Amended

CHAPTER 231

JUVENILE COURT

Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495)

See article 7 in chapter 602 of this Supplement
Transition provisions in article 11, chapter 602

CHAPTER 232

JUVENILE JUSTICE

232.2 Definitions. As used in this chapter unless the context otherwise requires:

1. "*Abandonment of a child*" means the permanent relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

2. "*Adjudicatory hearing*" means a hearing to determine if the allegations of a petition are true.

3. *“Adult”* means a person other than a child.
4. *“Child”* means a person under eighteen years of age.
5. *“Child in need of assistance”* means an unmarried child:
 - a. Whose parent, guardian or other custodian has abandoned the child.
 - b. Whose parent, guardian or other custodian has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.
 - c. Who has suffered or is imminently likely to suffer harmful effects as a result of:
 - (1) Conditions created by the child’s parent, guardian, custodian; or
 - (2) The failure of the child’s parent, guardian, or custodian to exercise a reasonable degree of care in supervising the child.
 - d. Who has been sexually abused by his or her parent, guardian, custodian or other member of the household in which the child resides.
 - e. Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness and whose parent, guardian or custodian is unwilling or unable to provide such treatment.
 - f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.
 - g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing or shelter and refuses other means made available to provide such essentials.
 - h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, or custodian.
 - i. Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political or artistic value.
 - j. Who is without a parent, guardian or other custodian.
 - k. Whose parent, guardian, or other custodian for good cause desires to be relieved of his or her care and custody.
 - l. Who for good cause desires to have his or her parents relieved of his or her care and custody.
6. *“Commissioner”* means the commissioner of the department of human services or that person’s designee.
7. *“Complaint”* means an oral or written report which is made to the juvenile court by any person and alleges that a child is within the jurisdiction of the court.
8. *“Court”* means the juvenile court established under section 602.7101.
9. *“Criminal justice agency”* means any agency which has as its primary responsibility the enforcement of the state’s criminal laws or of local ordinances made pursuant to state law.
10. *“Custodian”* means a step-parent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to division IV or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child shall be as follows:
 - a. To maintain or transfer to another the physical possession of that child.
 - b. To protect, train, and discipline that child.
 - c. To provide food, clothing, housing, and medical care for that child.
 - d. To consent to emergency medical care, including surgery.
 - e. To sign a release of medical information to a health professional.
 All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.
11. *“Delinquent act”* means:

a. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult except any offense which by law is exempted from the jurisdiction of this chapter.

b. The violation of a federal law or a law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court.

12. "*Department*" means the department of human services and includes the local, county and regional officers of the department.

13. "*Detention*" means the temporary care of a child in a physically restricting facility designed to ensure the continued custody of the child at any point between the child's initial contact with the juvenile authorities and the final disposition of his or her case.

14. "*Detention hearing*" means a hearing at which the court determines whether it is necessary to place or retain a child in detention.

15. "*Dismissal of complaint*" means the termination of all proceedings against a child.

16. "*Dispositional hearing*" means a hearing held after an adjudication to determine what dispositional order should be made.

17. "*Family in need of assistance*" means a family in which there has been a breakdown in the relationship between a child and his or her parent, guardian or custodian.

18. "*Guardian*" means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child, to make important decisions which have a permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

a. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.

b. To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.

c. To serve as custodian, unless another person has been appointed custodian.

d. To make periodic visitations if the guardian does not have physical possession or custody of the child.

e. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

19. "*Guardian ad litem*" means a person appointed by the court to represent the interests of the child in any judicial proceeding to which the child is a party.

20. "*Health practitioner*" means a licensed physician or surgeon, osteopath, osteopathic physician or surgeon, dentist, optometrist, podiatrist or chiropractor, a resident or intern of any such profession, and any registered nurse or licensed practical nurse.

21. "*Informal adjustment*" means the disposition of a complaint without the filing of a petition and may include but is not limited to the following:

a. Placement of the child on nonjudicial probation.

b. Provision of intake services.

c. Referral of the child to a public or private agency other than the court for services.

22. "*Informal adjustment agreement*" means an agreement between an intake officer, a child who is the subject of a complaint, and the child's parent, guardian or custodian providing for the informal adjustment of the complaint.

23. *"Intake"* means the preliminary screening of complaints by an intake officer to determine whether the court should take some action and if so, what action.

24. *"Intake officer"* means a juvenile court officer or other officer appointed by the court to perform the intake function.

25. *"Judge"* means the judge of a juvenile court.

26. *"Juvenile court social records"* or *"social records"* means all records made with respect to a child in connection with proceedings over which the court has jurisdiction under this chapter other than official records and includes but is not limited to the records made and compiled by intake officers, predisposition reports, and reports of physical and mental examinations.

27. *"Juvenile detention home"* means a physically restricting facility used only for the detention of children.

28. *"Juvenile parole officer"* means a person representing an agency which retains jurisdiction over the case of a child adjudicated to have committed a delinquent act, placed in a secure facility and subsequently released, who supervises the activities of the child until the case is dismissed.

29. *"Juvenile court officer"* means a person appointed as a juvenile court officer under division I, article 7 of chapter 602 and a chief juvenile court officer appointed under section 602.1217.

30. *"Juvenile shelter care home"* means a physically unrestricting facility used only for the shelter care of children.

31. *"Nonjudicial probation"* means the informal adjustment of a complaint which involves the supervision of the child who is the subject of the complaint by an intake officer or juvenile court officer for a period during which the child may be required to comply with specified conditions concerning his or her conduct and activities.

32. *"Nonsecure facility"* means a physically unrestricting facility in which children may be placed pursuant to a dispositional order of the court made in accordance with the provisions of this chapter.

33. *"Official juvenile court records"* or *"official records"* means official records of the court of proceedings over which the court has jurisdiction under this chapter which includes but is not limited to the following:

a. The docket of the court and entries therein.

b. Complaints, petitions, other pleadings, motions, and applications filed with a court.

c. Any summons, notice, subpoena, or other process and proofs of publication.

d. Transcripts of proceedings before the court.

e. Findings, judgments, decrees and orders of the court.

34. *"Parent"* means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

35. *"Peace officer"* means a law enforcement officer or a person designated as a peace officer by a provision of the Code.

36. *"Petition"* means a pleading the filing of which initiates formal judicial proceedings in the juvenile court.

37. *"Physical abuse or neglect"* or *"abuse or neglect"* means any nonaccidental physical injury suffered by a child as the result of the acts or omissions of the child's parent, guardian or custodian or other person legally responsible for the child.

38. *"Predisposition investigation"* means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a delinquency case over which the court has jurisdiction.

39. *"Predisposition report"* is a report furnished to the court which contains the information collected during a predisposition investigation.

40. *"Probation"* means a legal status which is created by a dispositional order of the court in a case where a child has been adjudicated to have committed a delinquent act, which exists for a specified period of time, and which places the child

under the supervision of a juvenile court officer or other person or agency designated by the court. The probation order may require a child to comply with specified conditions imposed by the court concerning conduct and activities, subject to being returned to the court for violation of those conditions.

41. "*Registry*" means the central registry for child abuse information as established under chapter 235A.

42. "*Residual parental rights and responsibilities*" means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person of the child. These include but are not limited to the right of visitation, the right to consent to adoption, and the responsibility for support.

43. "*Secure facility*" means a physically restricting facility in which children adjudicated to have committed a delinquent act may be placed pursuant to a dispositional order of the court.

44. "*Sexual abuse*" means the commission of a sex offense as defined by the penal law.

45. "*Shelter care*" means the temporary care of a child in a physically unrestricting facility at any time between a child's initial contact with juvenile authorities and the final judicial disposition of his or her case.

46. "*Shelter care hearing*" means a hearing at which the court determines whether it is necessary to place or retain a child in shelter care.

47. "*Social investigation*" means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a child in need of assistance case over which the court has jurisdiction.

48. "*Social report*" means a report furnished to the court which contains the information collected during a social investigation.

49. "*Taking into custody*" means an act which would be governed by the laws of arrest under the criminal code if the subject of the act were an adult. The taking into custody of a child is subject to all constitutional and statutory protections which are afforded an adult upon arrest.

50. "*Termination hearing*" means a hearing held to determine whether the court should terminate a parent-child relationship.

51. "*Termination of the parent-child relationship*" means the divestment by the court of the parent's and child's privileges, duties and powers with respect to each other.

52. "*Waiver hearing*" means a hearing at which the court determines whether it shall waive its jurisdiction over a child alleged to have committed a delinquent act so that the state may prosecute the child as if the child were an adult.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 6 and 12 amended

(83 Acts, ch 186, § 10054, 10055, 10201) SF 495

Transition provisions for subsection 29 in article 11, chapter 602 of this Supplement

Subsections 8, 24, 29, 31 and 40 amended

232.3 Concurrent court proceedings.

1. During the pendency of an action under this chapter, a party to the action is estopped from litigating concurrently the custody, guardianship, or placement of a child who is the subject of the action, in a court other than the juvenile court. A district judge, district associate judge, magistrate, or judicial hospitalization referee, upon notice of the pendency of an action under this chapter, shall not issue an order, finding, or decision relating to the custody, guardianship, or placement of the child who is the subject of the action, under any law, including but not limited to chapter 598, 598A, or 633.

2. The juvenile court with jurisdiction of the pending action under this chapter, however, may, upon the request of a party to the action or on its own motion, authorize the party to litigate concurrently in another court a specific issue relating to the custody, guardianship, or placement of the child who is the subject of the

action. Before authorizing a party to litigate a specific issue in another court, the juvenile court shall give all parties to the action an opportunity to be heard on the proposed authorization. The juvenile court may request but shall not require another court to exercise jurisdiction and adjudicate a specific issue relating to the custody, guardianship, or placement of the child.

(83 Acts, ch 186, § 10056, 10201) SF 495

NEW section

(83 Acts, ch 21, § 2) SF 478

NEW section; identical enactment

232.19 Taking a child into custody.

1. A child may be taken into custody:
 - a. By order of the court.
 - b. For a delinquent act pursuant to the laws relating to arrest.
 - c. By a peace officer for the purpose of reuniting a child with the child's family or removing the child to a shelter care facility when the peace officer has reasonable grounds to believe the child has run away from his or her parents, guardian, or custodian.
 - d. By a peace officer, juvenile court officer, or juvenile parole officer when the officer has reasonable grounds to believe the child has committed a material violation of a dispositional order.

2. When a child is taken into custody as provided in subsection 1 the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. Unless the child is placed in shelter care or detention in accordance with the provisions of sections 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 1, paragraph d amended

232.21 Placement in shelter care.

1. No child shall be placed in shelter care unless one of the following circumstances applies:

a. The child has no parent, guardian, custodian, responsible adult relative or other adult approved by the court who will provide proper shelter, care and supervision.

b. The child desires to be placed in shelter care.

c. It is necessary to hold the child until his or her parent, guardian, or custodian has been contacted and has taken custody of the child.

d. It is necessary to hold the child for transfer to another jurisdiction.

e. The child is being placed pursuant to an order of the court.

2. A child may be placed in shelter care as provided in this section only in one of the following facilities:

a. A juvenile shelter care home.

b. A licensed foster home.

c. An institution or other facility operated by the department of human services, or one which is licensed or otherwise authorized by law to receive and provide care for the child.

d. Any other suitable place designated by the court provided that no place used for the detention of a child may be so designated.

3. When there is reason to believe that a child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c" would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to ensure the child's continued custody.

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c" shall not be held in excess of seventy-two hours in any event.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c" with his or her family, a child in need of assistance complaint may be filed pursuant to section 232.81. Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section 232.125.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, paragraph c amended

232.29 Informal adjustment.

1. The informal adjustment of a complaint is a permissible disposition of a complaint at intake subject to the following conditions:

- a. The child has admitted his or her involvement in a delinquent act.
- b. The intake officer shall advise the child and his or her parent, guardian or custodian that they have the right to refuse an informal adjustment of the complaint and demand the filing of a petition and a formal adjudication.
- c. Any informal adjustment agreement shall be entered into voluntarily and intelligently by the child with the advice of his or her attorney, or by the child with the consent of a parent, guardian, or custodian if the child is not represented by counsel.

d. The terms of such agreement shall be clearly stated in writing and signed by all parties to the agreement and a copy of this agreement shall be given to the child; the counsel for the child; the parent, guardian or custodian; and the intake officer, who shall retain the copy in the case file.

e. An agreement providing for the supervision of a child by a juvenile court officer or the provision of intake services shall not exceed six months.

f. An agreement providing for the referral of a child to a public or private agency for services shall not exceed six months.

g. The child and his or her parent, guardian or custodian shall have the right to terminate such agreement at any time and to request the filing of a petition and a formal adjudication.

h. If an informal adjustment of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period of six months from the date the informal adjustment agreement was entered into. If a petition is filed within this period the child's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court.

i. The person performing the duties of intake officer shall file a report at least annually with the court listing the number of informal adjustments made during the reporting time, the conditions imposed in each case, the number of informal adjustments resulting in dismissal without the filing of a petition, and the number of informal adjustments resulting in the filing of a petition upon the original complaint.

2. An informal adjustment agreement may require the child to perform a work assignment of value to the state or to the public or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 1, paragraph e amended

232.46 Consent decree.

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include the supervision of the child by a juvenile court officer or other agency or person designated by the court and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

2. A consent decree shall not be entered unless the child and his or her parent, guardian or custodian is informed of the consequences of the decree by the court and the court determines that the child has voluntarily and intelligently agreed to the terms and conditions of the decree. If the county attorney objects to the entry of a consent decree, the court shall proceed to determine the appropriateness of entering a consent decree after consideration of any objections or reasons for entering such a decree.

3. A consent decree shall remain in force for six months unless the child is sooner discharged by the court or by the juvenile court officer or other agency or person supervising the child. Upon application of a juvenile court officer or other agency or person supervising the child made prior to the expiration of the decree and after notice and hearing, or upon agreement by the parties, a consent decree may be extended for an additional six months by order of the court.

4. When a child has complied with the express terms and conditions of the consent decree for the required amount of time or until earlier dismissed as provided in subsection 3, the original petition may not be reinstated. However, failure to so comply may result in the child's being thereafter held accountable as if the consent decree had never been entered.

5. A child who is discharged or who completes a period of continuance without the reinstatement of the original petition shall not be proceeded against in any court for a delinquent act alleged in the petition.

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
Subsections 1 and 3 amended

232.48 Predisposition investigation and report.

1. The court shall not make a disposition of the matter following the entry of an order of adjudication pursuant to section 232.47 until a predisposition report has been submitted to and considered by the court. The court may direct a juvenile court officer or any other agency or individual to conduct a predisposition investigation and to prepare a predisposition report.

2. A predisposition investigation shall not be conducted prior to the adjudication of the child without the consent of the child and his or her counsel. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing.

3. A predisposition report shall not be disclosed except as provided in this section and in division VIII of this chapter. Prior to the dispositional hearing, the court shall permit the child's attorney to inspect any predisposition report to be considered by the court in making a disposition. The court may in its discretion order counsel not to disclose parts of the report to the child, or to the child's parent, guardian, guardian ad litem, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the child.

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
Subsection 1 amended

232.51 Disposition of mentally ill or mentally retarded child. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. Such proceedings shall adhere to the requirements of chapter 229. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. Such proceedings shall adhere to the requirements of chapter 222. In the event the child is committed as a mentally ill or mentally retarded child, any order adjudicating the child to have committed a delinquent act shall be set aside and the petition shall be dismissed.

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

232.52 Disposition of child found to have committed a delinquent act.

1. Pursuant to a hearing as provided in section 232.50, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child and the child's prior record. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual, agency, department or facility in whom custody is vested.

2. The dispositional orders which the court may enter subject to its continuing jurisdiction are as follows:

a. An order prescribing a work assignment of value to the state or to the public, or prescribing restitution consisting of monetary payment or a work assignment of value to the victim. Such order may be the sole disposition or may be included as an element in other dispositional orders.

b. An order placing the child on probation and releasing the child to his or her parent, guardian or custodian.

c. An order providing special care and treatment required for the physical, emotional or mental health of the child, and

(1) Placing the child on probation or other supervision; and

(2) If the court deems appropriate, ordering the parent, guardian, or custodian to reimburse the county for any costs incurred as provided in section 232.141, subsection 2 or to otherwise pay or provide for such care and treatment.

d. An order transferring the legal custody of the child, subject to the continuing jurisdiction of the court for purposes of section 232.54, to one of the following:

(1) An adult relative or other suitable adult and placing the child on probation.

(2) A child placing agency or other suitable private agency or facility which is licensed or otherwise authorized by law to receive and provide care for children and placing the child on probation or other supervision.

(3) The department of human services for purposes of foster care and prescribing the type of placement which will serve the best interests of the child and the means by which the placement shall be monitored by the court.

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction of the court for the purposes of section 232.54, to the commissioner of the department of human services for purposes of placement in the state training school or other facility provided that:

(1) The child is at least twelve years of age; and

(2) The court finds such placement to be in the best interests of the child or necessary to the protection of the public.

f. An order committing the child to a mental health institute or other appropriate

facility for the purpose of treatment of a mental or emotional condition after making findings pursuant to the standards set out for involuntary commitment in chapter 229.

3. When the court enters an order placing a child on probation pursuant to this section, the court may in cases of change of residency transfer jurisdiction of the child to the juvenile court of the county where the child's residence is established. The court to which the jurisdiction of the child is transferred shall have the same powers with respect to the child as if the petition had originally been filed in that court.

4. When the court enters an order transferring the legal and physical custody of a child to an agency, facility, department or institution, the court shall transmit its order, its finding, and a summary of its information concerning the child to such agency, facility, department or institution.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, paragraph d, subparagraph (3), and paragraph e amended

232.63 Modification of custody decree. Repealed by 83 Acts, ch 21, § 3 (SF 478), and 83 Acts, ch 186, § 10201, 10203. (SF 495)

232.68 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Child*" means any person under the age of eighteen years.
2. "*Child abuse*" or "*abuse*" means harm or threatened harm occurring through:
 - a. Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.
 - b. The commission of any sexual offense with or to a child pursuant to chapter 709 or section 726.2, as a result of the acts or omissions of the person responsible for the care of the child.
 - c. The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.
3. "*Department*" means the state department of human services and includes the local, county and regional offices of the department.
4. "*Health practitioner*" includes a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatrist or chiropractor; a resident or intern in any of such professions; and any registered nurse or licensed practical nurse.
5. "*Registry*" means the central registry for child abuse information established in section 235A.14.
6. "*Person responsible for the care of a child*" means:
 - a. A parent, guardian, or foster parent.
 - b. A relative or any other person with whom the child resides, without reference to the length of time or continuity of such residence.
 - c. An employee or agent of any public or private facility providing care for a child, including an institution, group home, mental health center, residential treatment center, shelter care facility, detention center or child care facility.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

232.69 Mandatory and permissive reporters.

1. The following classes of persons shall make a report, as provided in section 232.70, of cases of child abuse:

a. Every health practitioner who examines, attends, or treats a child and who reasonably believes the child has been abused. If, however, the health practitioner examines, attends, or treats the child as a member of the staff of a hospital or similar institution, the examining health practitioner shall immediately notify and give complete information to the person in charge of the institution or the health practitioner's designated agent and the person in charge of the institution or designated agent shall make the report.

b. Every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee of a licensed day care facility, member of the staff of a mental health center, or peace officer, who, in the course of employment, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse. Whenever such person is required to report under this section as a member of the staff of a public or private institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency or facility, or that person's designated agent and the person in charge of the institution, agency, or facility, or the designated agent shall make the report.

2. Any other person who believes that a child has been abused may make a report as provided in section 232.70.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1, paragraph b amended

232.70 Reporting procedure.

1. Each report made by a mandatory reporter, as defined in section 232.69, subsection 1, shall be made both orally and in writing. Each report made by a permissive reporter, as defined in section 232.69, subsection 2, may be oral, written, or both.

2. The oral report shall be made by telephone or otherwise to the department of human services. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

3. The written report shall be made to the department of human services within forty-eight hours after such oral report.

4. The department of human services shall:

a. Immediately, upon receipt of an oral report, make an oral report to the registry;

b. Forward a copy of the written report to the registry; and

c. Notify the appropriate county attorney of the receipt of any report.

5. The oral and written reports shall contain the following information, or as much thereof as the person making the report is able to furnish:

a. The names and home address of the child and his parents or other persons believed to be responsible for his care;

b. The child's present whereabouts if not the same as the parent's or other person's home address;

c. The child's age;

d. The nature and extent of the child's injuries, including any evidence of previous injuries;

e. The name, age and condition of other children in the same home;

f. Any other information which the person making the report believes might be helpful in establishing the cause of the injury to the child, the identity of the person or persons responsible for the injury, or in providing assistance to the child; and

g. The name and address of the person making the report.

6. A report made by a permissive reporter, as defined in section 232.69, subsection 2, shall be regarded as a report pursuant to this chapter whether or not the report contains all of the information required by this section and may be made to the department of human services, county attorney, or law enforcement agency. If the report is made to any agency other than the department of human services, such agency shall promptly refer the report to the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464
Subsections 2, 3, 4 and 6 amended

232.71 Duties of the department upon receipt of report.

1. Whenever a report is received, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report.

2. The investigation shall include:

a. Identification of the nature, extent and cause of the injuries, if any, to the child named in the report;

b. The identification of the person or persons responsible therefor;

c. The name, age and condition of other children in the same home as the child named in the report;

d. An evaluation of the home environment and relationship of the child named in the report and any other children in the same home as the parents or other persons responsible for their care;

e. An investigation of all other pertinent matters.

3. The investigation may with the consent of the parent or guardian include a visit to the home of the child named in the report and examination of such child. If permission to enter the home and to examine the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the investigation to enter the home and examine the child.

4. The county attorney and any law enforcement or social services agency in the state shall co-operate and assist in the investigation upon the request of the department of human services. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

5. The department of human services, upon completion of its investigation, shall make a preliminary report of its investigation as required by subsection 2. A copy of this report shall be transmitted to juvenile court within ninety-six hours after the department of human services initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the juvenile court grants an extension of time for good cause shown. The juvenile court shall notify the registry of any action it takes with respect to a suspected case of child abuse.

6. The department of human services shall transmit a copy of the report of its investigation, including actions taken or contemplated, to the registry. The department of human services shall make periodic follow-up reports thereafter in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the handling of a suspected case of child abuse.

7. The department of human services shall also transmit a copy of the report of its investigation to the county attorney. The county attorney shall notify the registry of any actions or contemplated actions with respect to a suspected case of child abuse so that the registry is kept up-to-date and fully informed concerning the handling of such a case.

8. Based on the investigation conducted pursuant to this section, the department shall offer to the family of any child believed to be the victim of abuse such services as appear appropriate for either the child, the family, or both, if it is explained that the department has no legal authority to compel such family to receive such services.

9. If, upon completion of the investigation, the department of human services determines that the best interests of the child require juvenile court action, the department shall take the appropriate action to initiate such action under this chapter. The attorney shall assist the county department of social services in the preparation of the necessary papers to initiate such action and shall appear and represent the department at all juvenile court proceedings.

10. The department of human services shall assist the juvenile court or district court during all stages of court proceedings involving a suspected child abuse case in accordance with the purposes of this chapter.

11. The department of human services shall provide for or arrange for and monitor rehabilitative services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court.

12. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in the proceedings. Before a guardian ad litem is appointed pursuant to this section, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the county treasury.

13. If a fourth report is received from the same person who made three earlier unsubstantiated reports which identified the same child as the abused child and the same person responsible for the child as the alleged abuser, the department may determine that the report is spurious, unfounded, or frivolous and may in its discretion terminate its investigation.

(83 Acts, ch 96, § 79, 157, 159, 160) SF 464

See Code editor's note at the end of this Supplement
Subsections 1, 4, 5, 6, 7, 9, 10 and 11 amended

(83 Acts, ch 123, § 90, 209) HF 628
Subsection 12 amended

232.72 Jurisdiction — transfer. “Department of human services” or “county attorney” ordinarily refer to the local or county office serving the county in which the child's home is located.

However, if the person making the report pursuant to this chapter does not know where the child's home is located, or if the child's home is not located in the service area where the health practitioner examines, attends, or treats the child, the report may be made to the state department of human services or to the local office serving the county where the person making the report resides or the county where the health practitioner examines, attends, or treats the child. These agencies shall promptly proceed as provided in section 232.71, unless the matter is transferred as provided in this section.

If the child's home is located in a county not served by the office receiving the report, the department shall promptly transfer the matter by transmitting a copy of the report of injury and any other pertinent information to the office and the county attorney serving the other county. They shall promptly proceed as provided in section 232.71.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraphs 1 and 2 amended

232.73 Immunity from liability. A person participating in good faith in the making of a report or photographs or X rays pursuant to this chapter or aiding and assisting in an investigation of a child abuse report pursuant to section 232.71 shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to

participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

(83 Acts, ch 88, § 1) HF 214

Amended

232.74 Evidence not privileged or excluded. Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

(83 Acts, ch 37, § 1) SF 504

Amended

232.77 Photographs and X rays. Any person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs or X rays of the areas of trauma visible on a child. Any health practitioner may, if medically indicated, cause to be performed radiological examination of the child. Any person who takes any photographs or X rays pursuant to this section shall notify the department of human services that such photographs or X rays have been taken, and shall retain such photographs or X rays for a reasonable time thereafter. Whenever such person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency, or facility or that person's designated delegate of the need for photographs or X rays.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

232.79 Removal without court order.

1. A peace officer may remove a child from his or her home or a physician treating a child may keep the child in custody without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that:

a. The child is in such circumstance or condition that his or her continued presence in the residence or in the care or custody of the parent, guardian, or custodian presents an imminent danger to the child's life or health; and

b. There is not enough time to apply for an order under section 232.78.

2. If a person authorized by this section removes or retains custody of a child, he or she shall:

a. Bring the child immediately to a place designated by the rules of the court for this purpose, unless the person is a physician treating the child and the child is or will presently be admitted to a hospital.

b. Make every reasonable effort to inform the parent, guardian, or custodian of the whereabouts of the child.

c. Promptly inform the court in writing of the emergency removal and the circumstances surrounding the removal.

3. Any person, agency, or institution acting in good faith in the removal or keeping of a child pursuant to this section, and any employer of or person under the direction of such a person, agency, or institution, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as the result of such removal or keeping.

4. When the court is informed that there has been an emergency removal or keeping of a child without a court order, the court shall direct the department of human services or the juvenile probation department to make every reasonable effort to communicate immediately with the child's parent or parents or other person

legally responsible for the child's care. The court shall also authorize the department of human services or the juvenile probation department to cause a child thus removed or kept to be returned if it concludes there is not an imminent risk to the child's life and health in so doing. If the child is not returned, the department of human services or the juvenile probation department shall forthwith cause a petition to be filed within three days after the removal.

5. When there has been an emergency removal or keeping of a child without a court order, a physical examination of the child by a licensed medical practitioner shall be performed within twenty-four hours of such removal, unless the child is returned to his or her home within twenty-four hours of the removal.

(83 Acts, ch 96, § 157, 159) SF 464
Subsection 4 amended

232.81 Complaint.

1. Any person having knowledge of the circumstances may file a complaint with the person or agency designated by the court to perform intake duties alleging that a child is a child in need of assistance.

2. Upon receipt of a complaint, the court may request the department of human services, juvenile probation office, or other authorized agency or individual to conduct a preliminary investigation of the complaint to determine if further action should be taken.

3. A petition alleging the child to be a child in need of assistance may be filed pursuant to section 232.87 provided the allegations of the complaint, if proven, are sufficient to establish the court's jurisdiction and the filing is in the best interests of the child.

4. A person or agency shall not maintain any records with regard to a complaint filed under division III of this chapter which is dismissed without the filing of a petition. This subsection does not apply to records maintained pursuant to chapter 235A.

(83 Acts, ch 96, § 157, 159) SF 464
Subsection 2 amended

232.82 Removal of sexual offenders from the residence pursuant to court order.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, the juvenile court may enter an ex parte order requiring the alleged sexual offender to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense has occurred and that the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of human services, or a juvenile court officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

(83 Acts, ch 96, § 157, 159) SF 464
Subsection 2 amended

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
See Code editor's note at the end of this Supplement
Subsection 2 amended

232.87 Filing of a petition — contents of petition.

1. A formal judicial proceeding to determine whether a child is a child in need of assistance under this Act shall be initiated by the filing of a petition alleging a child to be a child in need of assistance.

2. A petition may be filed by the department of human services, juvenile court officer, or county attorney.

3. The department, juvenile court officer, county attorney or judge may authorize the filing of a petition with the clerk of the court by any competent person having knowledge of the circumstances without the payment of a filing fee.

4. The petition shall be submitted in the form specified in section 232.36.

5. The petition shall contain the information specified in section 232.36 and a clear and concise summary of the facts which bring the child within the jurisdiction of the court under this division.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2 amended

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See Code editor's note at the end of this Supplement

Subsections 2 and 3 amended

232.89 Right to and appointment of counsel.

1. Upon the filing of a petition the parent, guardian or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition, the court shall appoint counsel and a guardian ad litem for the child identified in the petition as a party to the proceedings. Counsel shall be appointed as follows:

a. If the child is represented by counsel and the court determines there is a conflict of interest between the child and his or her parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child, who shall be compensated pursuant to the provisions of subsection 3.

b. If the child is not represented by counsel, the court shall either order the parent, guardian or custodian to retain counsel for the child or shall appoint counsel for the child, who shall be compensated pursuant to the provisions of subsection 3.

3. The court shall determine, after giving the parent, guardian or custodian an opportunity to be heard, whether such person has the ability to pay in whole or in part for counsel appointed for the child. If the court determines that such person possesses sufficient financial ability, the court shall then consult with the department of human services, the juvenile probation office or other authorized agency or individual regarding the likelihood of impairment of the relationship between the child and his or her parent, guardian or custodian as a result of ordering the parent, guardian or custodian to pay for the child's counsel. If impairment is deemed unlikely, the court shall order that person to pay such sums as the court finds appropriate in the manner and to whom the court directs. If the person so ordered fails to comply with the order without good reason, the court shall enter judgment against him or her. If impairment is deemed likely or if the court determines that the parent, guardian or custodian cannot pay any part of the expenses of counsel appointed to represent the child, counsel shall be reimbursed pursuant to section 232.141, subsection 1, paragraph "d".

4. The same person may serve both as the child's counsel and as guardian ad litem.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

232.96 Adjudicatory hearing.

1. The court shall hear and adjudicate cases involving a petition alleging a child to be a child in need of assistance.

2. The state shall have the burden of proving the allegations by clear and convincing evidence.

3. Only evidence which is admissible under the rules of evidence applicable to the trial of civil cases shall be admitted, except as otherwise provided by this section.

4. A report made to the department of human services pursuant to chapter 235A shall be admissible in evidence if the person making the report does not appear as a witness at the hearing, but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a physician and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

6. A report, study, record, or other writing made by the department of human services, a juvenile court officer, a peace officer or a hospital relating to a child in a proceeding under this division shall be admissible notwithstanding any objection to hearsay statements contained therein provided it is relevant and material and provided its probative value substantially outweighs the danger of unfair prejudice to the child's parent, guardian, or custodian. The circumstances of the making of the report, study, record or other writing, including the maker's lack of personal knowledge, may be proved to affect its weight.

7. After the hearing is concluded, the court shall make and file written findings as to the truth of allegations of the petition and as to whether the child is a child in need of assistance.

8. If the court concludes facts sufficient to sustain a petition have not been established by clear and convincing evidence or if the court concludes that its aid is not required in the circumstances, the court shall dismiss the petition.

9. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence and that its aid is required, the court may enter an order adjudicating the child to be a child in need of assistance.

10. If the court enters an order adjudicating the child to be a child in need of assistance, the court, if it has not previously done so, may issue an order authorizing temporary removal of the child from his or her home as set forth in section 232.95, subsection 2, paragraph "a", pending a final order of disposition.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 4 and 6 amended

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See Code editor's note at the end of this Supplement

Subsection 6 amended

232.97 Social investigation and report.

1. The court shall not make any disposition of the petition until a social report has been submitted to and considered by the court. The court may direct the juvenile court officer, department of human services or any other agency licensed by the state to conduct a social investigation and to prepare a social report.

2. The social investigation may be conducted and the social history may be submitted to the court prior to the adjudication of the child as a child in need of assistance with the consent of the parties.

3. The social report shall not be disclosed except as provided in this section and except as otherwise provided in this chapter. Prior to the hearing at which the disposition is determined, the court shall permit counsel for the child and counsel for the child's parent, guardian or custodian to inspect any social report to be considered by the court. The court may in its discretion order such counsel not to

disclose parts of the report to the child, or to the parent, guardian or custodian if disclosure would seriously harm the treatment or rehabilitation of the child or would violate a promise of confidentiality given to a source of information.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 1 amended

232.100 Suspended judgment. After the dispositional hearing the court may enter an order suspending judgment and continuing the proceedings subject to terms and conditions imposed to assure the proper care and protection of the child. Such terms and conditions may include the supervision of the child and of the parent, guardian or custodian by the department of human services, juvenile probation office or other appropriate agency designated by the court. The maximum duration of any term or condition of a suspended judgment shall be twelve months unless the court finds at a hearing held during the last month of that period that exceptional circumstances require an extension of the term or condition for an additional six months.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

232.101 Retention of custody by parent.

1. After the dispositional hearing, the court may enter an order permitting the child's parent, guardian or custodian at the time of the filing of the petition to retain custody of the child subject to terms and conditions which the court prescribes to assure the proper care and protection of the child. Such terms and conditions may include supervision of the child and the parent, guardian or custodian by the department of human services, juvenile probation office or other appropriate agency which the court designates. Such terms and conditions may also include the provision or acceptance by the parent, guardian or custodian of special treatment or care which the child needs for his or her physical or mental health. If the parent, guardian or custodian fails to provide the treatment or care, the court may order the department of human services or some other appropriate state agency to provide such care or treatment.

2. The duration of any period of supervision or other terms or conditions shall be for an initial period of no more than eighteen months and the court, at the expiration of that period, upon a hearing and for good cause shown, may make not more than two successive extensions of such supervision or other terms or conditions of up to twelve months each.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

232.102 Transfer of legal custody of juvenile and placement.

1. After a dispositional hearing the court may enter an order transferring the legal custody of the child to one of the following for purposes of placement:

- a. A relative or other suitable person.
- b. A child placing agency or other suitable private agency, facility or institution which is licensed or otherwise authorized by law to receive and provide care for the child.
- c. The department of human services.

2. After a dispositional hearing and upon written findings of fact based upon evidence in the record that an alternative placement set forth in subsection 1, paragraph "b" has previously been made and is not appropriate the court may enter an order transferring the guardianship of the court for the purposes of subsection 6, to the commissioner of human services for the purposes of placement in the Iowa Juvenile Home at Toledo.

3. Whenever possible the court should permit the child to remain at home with his or her parent, guardian or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:

a. The child cannot be protected from physical abuse without transfer of custody; or

b. The child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance and an adequate placement is available.

4. The child shall not be placed in the state training school.

5. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit to the court a specific plan for placement of the child and shall make every effort to return the child to his or her home as quickly as possible. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian or custodian in order to enable them to resume custody of the child.

6. The duration of any placement made after an order pursuant to this section shall be for an initial period of six months. At the expiration of that period, the court shall hold a hearing and review the placement in order to determine whether the child should be returned home, an extension of the placement should be made, or a termination of the parent-child relationship proceeding should be instituted. The placement should be terminated and the child returned to his or her home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section 232.2, subsection 5. If the placement is extended, the court should determine whether additional services are necessary to facilitate the return of the child to his or her home, and if the court determines such services are needed, the court shall order the provision of such services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1, paragraph c, and subsections 2 and 5 amended

232.111 Petition.

1. A child's guardian or custodian, the department of human services, a juvenile court officer or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child.

2. The department, juvenile court officer, county attorney or judge may authorize any competent person having knowledge of the circumstances to file a termination petition with the clerk of the court without the payment of a filing fee.

3. A petition for termination of parental rights shall include the following:

a. The legal name, age, and domicile, if any, of the child.

b. The names, residences, and domicile of any:

(1) Living parents of the child.

(2) Guardian of the child.

(3) Custodian of the child.

(4) Guardian ad litem of the child.

(5) Petitioner.

(6) Person standing in the place of the parents of the child.

c. A plain statement of those facts and grounds specified in section 232.116 which indicate that the parent-child relationship should be terminated.

d. A plain statement explaining why the petitioner does not know any of the information required under paragraphs "a" and "b" of this subsection.

e. The signature and verification of the petitioner.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See Code editor's note to section 12.10 at the end of this Supplement

Subsections 1 and 2 amended

232.117 Termination — findings — disposition.

1. After the hearing is concluded the court shall make and file written findings.

2. If the court concludes that facts sufficient to terminate parental rights have not been established by clear and convincing evidence, the court shall dismiss the petition.

3. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence, the court may order parental rights terminated. If the court terminates the parental rights of the child's natural or adoptive parents, the court shall transfer the guardianship and custody of the child to one of the following:

a. The department of human services.

b. A child placing agency or other suitable private agency, facility or institution which is licensed or otherwise authorized by law to receive and provide care for the child.

c. A relative or other suitable person.

4. If after a hearing the court does not order the termination of parental rights but finds that there is clear and convincing evidence that the child is a child in need of assistance, under section 232.2, subsection 5, due to the acts or omissions of one or both of his or her parents the court may adjudicate the child to be a child in need of assistance and may enter an order in accordance with the provisions of sections 232.100, 232.101 or 232.102.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3, paragraph a amended

232.124 Modification of custody decree. Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495), and 83 Acts, ch 21, § 3. (SF 478)

232.125 Petition.

1. A family in need of assistance proceeding shall be initiated by the filing of a petition alleging that a child and his or her parent, guardian or custodian are a family in need of assistance.

2. Such a petition may be filed by the child's parent, guardian or custodian or by the child. The judge, county attorney, or juvenile court officer may authorize such parent, guardian, custodian, or child to file a petition with the clerk of the court without the payment of a filing fee.

3. The petition and subsequent court documents shall be entitled "In re the family of"

4. The petition shall state the names and residences of the child, and his or her living parents, guardian, custodian and guardian ad litem, if any and the age of the child.

5. The petition shall allege that there has been a breakdown in the familial relationship and that the petitioner has sought services from public or private agencies to maintain and improve the familial relationship.

(83 Acts, ch 186, § 10055, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 2 amended

232.142 Maintenance and cost of juvenile homes.

1. County boards of supervisors which singly or in conjunction with one or more other counties provide and maintain juvenile detention and juvenile shelter care homes are subject to this section.

2. For the purpose of providing and maintaining a county or multicounty home, the board of supervisors of any county may issue general county purpose bonds in accordance with sections 331.441 to 331.449. Expenses for providing and maintaining a multicounty home shall be paid by the counties participating in a manner to be determined by the boards of supervisors.

3. Upon request of the board of supervisors, the area education agency shall provide suitable curriculum, teaching staff, books, supplies, and other necessary materials and equipment for the instruction of children of school age who are detained in such a home.

4. Approved county or multicounty juvenile homes shall be entitled to receive financial aid from the state in the amount and in such manner as determined by the commissioner. Aid paid by the state shall not exceed fifty percent of the total cost of the establishment, improvements, operation, and maintenance of such a home.

5. The commissioner shall adopt minimal rules and standards for the establishment, maintenance, and operation of such homes as shall be necessary to effect the purposes of this chapter. The commissioner shall, upon request, give guidance and consultation in the establishment and administration of such homes and programs for such homes.

6. The commissioner shall approve annually all such homes established and maintained under the provisions of this chapter. No such home shall be approved unless it complies with minimal rules and standards adopted by the commissioner.

(83 Acts, ch 123, § 91, 209) HF 628

Subsection 2 amended

232.147 Confidentiality of juvenile court records.

1. Juvenile court records shall be confidential. They shall not be inspected and their contents shall not be disclosed except as provided in this section.

2. Official juvenile court records in cases alleging delinquency shall be public records, subject to sealing under section 232.150. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter.

3. Official juvenile court records in all cases except those alleging delinquency may be inspected and their contents shall be disclosed to the following without court order:

- a. The judge and professional court staff, including juvenile court officers.
- b. The child and his or her counsel.
- c. The child's parent, guardian or custodian, and guardian ad litem.
- d. The county attorney and his or her assistants.
- e. An agency, association, facility or institution which has custody of the child, or is legally responsible for the care, treatment or supervision of the child.
- f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

4. Pursuant to court order official records may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

5. Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order or unless otherwise provided in this subsection or chapter.

If an informal adjustment of a complaint is made pursuant to section 232.29, the intake officer shall disclose to the victim of the delinquent act, upon the request of the victim, the name and address of the child who committed the delinquent act.

6. All juvenile court records shall be made available for inspection and their contents shall be disclosed to any party to the case and his or her counsel and to any trial or appellate court in connection with an appeal pursuant to division VI of this chapter.

(83 Acts, ch 186, § 10057, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 3, paragraph a amended

232.149 Law enforcement records.

1. The taking of a child into custody under the provisions of section 232.19 shall not be considered an arrest.

2. Records and files of a criminal justice agency concerning a child other than fingerprint and photograph records and files shall not be open to inspection and their contents shall not be disclosed except as provided in this section and section 232.150 unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

3. Such records may be inspected and their contents may be disclosed without a court order to the following:

a. Peace officers of this state and other jurisdictions when necessary for the discharge of their official duties.

b. The judge and professional staff, including juvenile court officers, of a juvenile court or of a juvenile or family court in another jurisdiction having the child currently before it in any proceeding.

c. The child, his or her counsel, parent, guardian, custodian and guardian ad litem.

d. The designated representative of any agency, association, facility or institution which has custody of the child, or is responsible for the care, treatment or supervision of the child pursuant to a court order.

e. A court in which the child has been convicted of a public offense in connection with a presentence report or dispositional proceedings.

4. Pursuant to court order such records may be inspected by and their contents may be disclosed to the following:

a. A person conducting bona fide research for research purposes under such conditions as the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

(83 Acts, ch 186, § 10057, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 3, paragraph b amended

232.152 Rules of juvenile procedure. Proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

(83 Acts, ch 186, § 10058, 10201) SF 495

Struck and rewritten

CHAPTER 232A

JUVENILE VICTIM RESTITUTION

NEW chapter

232A.1 Definitions. For purposes of this chapter, "agency" means the criminal and juvenile justice planning agency established in chapter 80C.

(83 Acts, ch 94, § 2) HF 528

NEW section

232A.2 Program created. A juvenile victim restitution program is created which shall be funded through moneys appropriated by the general assembly to the agency. The primary purpose of the program is to provide funds to compensate victims for losses due to the delinquent acts of juveniles.

Upon completion of a district's plan, the agency shall provide funds in conformance with the procedures and policies of the state. The agency shall reclaim any portion of an initial allocation to a judicial district that is unencumbered on December 31 of any year. The agency shall immediately reallocate the reclaimed funds to those judicial districts from which funds were not reclaimed in the manner provided in this section for the original allocation. Any portion of an amount

allocated that remains unencumbered on June 30 of any year shall revert to the general fund of the state.

(83 Acts, ch 94, § 3) HF 528
NEW section

232A.3 Reports required. Each judicial district shall submit a report of the progress and financial status of its juvenile victim restitution program to the agency on a quarterly basis. The agency shall prepare and submit a report on the progress and financial status of the programs to the general assembly no later than March 15, 1984, and again every year thereafter.

(83 Acts, ch 94, § 4) HF 528
NEW section

232A.4 Restitution for delinquent acts. If a judge of a juvenile court finds that a juvenile has committed a delinquent act and requires the juvenile to compensate the victim of that act for losses due to the delinquent act of the juvenile, the juvenile shall make such restitution according to a schedule established by the judge from funds earned by the juvenile pursuant to employment engaged in by the juvenile at the time of disposition. If a juvenile enters into an informal adjustment agreement pursuant to section 232.29 to make such restitution, the juvenile shall make such restitution according to a schedule which shall be a part of the informal adjustment agreement. The restitution shall be made under the direction of a probation officer working under the direction of the juvenile court. In those counties where the county maintains an office to provide juvenile victim restitution services, the probation officer may use that office's services. If the juvenile is not employed, the juvenile's probation officer shall make a reasonable effort to find private or other public employment for the juvenile. However, if the juvenile offender does not have employment at the time of disposition and private or other public employment is not obtained despite the efforts of the juvenile's probation officer, the judge may direct the juvenile offender to perform work pursuant to section 232.52, subsection 2, paragraph "a", and arrange for compensation of the juvenile in the manner provided for under the program established pursuant to this chapter.

(83 Acts, ch 94, § 5) HF 528
NEW section

CHAPTER 234

CHILD AND FAMILY SERVICES

234.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Division" or "state division" means that division of the department of human services to which the commissioner has assigned responsibility for income and service programs.
2. "Director" or "state director" means the director of the division.
3. "County board" means the county board of social welfare appointed pursuant to section 234.9.
4. "Child" means either a person less than eighteen years of age or a person eighteen, nineteen or twenty years of age who meets any of the following conditions:
 - a. Is in full-time attendance at an approved school pursuing a course of study leading to a high school diploma.
 - b. Is attending an instructional program leading to a high school equivalency diploma.
 - c. Has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 281.2, subsection 1.

1. A person over eighteen years of age who has received a high school diploma or a

high school equivalency diploma is not a child within the definition in this subsection.

5. "Food programs" means the food stamp and donated foods programs authorized by federal law under the United States department of agriculture.

(83 Acts, ch 96, § 160) SF 464

Amended

234.36 When county to pay foster care costs. Each county shall pay the cost of foster care for a child placed by a court as provided in section 232.50 or section 232.99. However, in any fiscal year for which the general assembly appropriates state funds to pay for foster care for children placed by courts under sections 232.50 and 232.99, the county is responsible for these costs only when the funds so appropriated to the department for that fiscal year have been exhausted. The rate of payment by the county or the state under this section shall be that fixed by the department of human services pursuant to section 234.38.

(83 Acts, ch 123, § 92, 209) HF 628

Amended

(83 Acts, ch 96, § 160) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Amended

234.39 Responsibility for cost of services. It is the intent of this chapter that individuals served by the department of human services, and their respective parents or guardians, shall have primary responsibility for paying the cost of care and services provided by the department, to the extent consistent with their incomes and resources. The department shall establish a schedule of charges to be made for care and services provided, on a graduated scale related to the income and resources of the person responsible for payment, by rules adopted pursuant to chapter 17A. The schedule of charges established and adopted under this section shall not be inconsistent with the limitations on legal liability established under sections 222.78 and 230.15, and by any other statute limiting legal liability which may be imposed on any person for the cost of care and services provided by the department of human services.

A dispositional order of the juvenile court requiring the provision of foster care shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's liability for the cost of foster care provided by the department. In establishing the amount of the liability, the court shall take into consideration the department's schedule of charges, and if the amount established deviates from the schedule of charges, the court shall explain the deviation in its order. The order shall direct the payment of the liability to the clerk of the district court for the use of the department's foster care recovery unit. The order shall be filed with the clerk and shall have the same force and effect as a judgment when entered in the judgment docket and lien index. The clerk shall disburse the payments pursuant to the order and enter the disbursements in a record book. If payments are not made as ordered, the clerk shall certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23. A dispositional order establishing the amount of a parent's or guardian's liability for the cost of foster care shall not vacate a prior court order which establishes the parent's or guardian's child support obligation.

(83 Acts, ch 153, § 3) SF 541

NEW unnumbered paragraph 2

(83 Acts, ch 96, § 160) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Amended

CHAPTER 235

CHILD WELFARE

235.1 Definitions. The terms "state division", "state director", "county department", "county board" and "child" are used in this chapter and chapter 238 as the terms are defined in section 234.1.

"Child welfare services" means social welfare services for the protection and care of children who are homeless, dependent or neglected, or in danger of becoming delinquent, including when necessary care and maintenance in a foster care facility.

(83 Acts, ch 101, § 44) SF 136

Unnumbered paragraph 1 amended

235.2 Powers and duties of state division. The state division, in addition to all other powers and duties given it by law, shall:

1. Administer and enforce the provisions of this chapter.
2. Join and co-operate with the government of the United States through its appropriate agency or instrumentality or with any other officer or agency of the federal government in planning, establishing, extending and strengthening public and private child welfare services within the state.
3. Make such investigations and to obtain such information as will permit the state director to determine the need for public child welfare services within the state and within the several county departments thereof.
4. Apply for and receive any funds which are or may be allotted to the state by the United States or any agency thereof for the purpose of developing child welfare services.
5. Make such reports and budget estimates to the governor and to the general assembly as are required by law or such as are necessary and proper to obtain the appropriation of state funds for child welfare services within the state and for all the purposes of this chapter.
6. Co-operate with the several county departments within the state, and all county boards of supervisors and other public or private agencies charged with the protection and care of children, in the development of child welfare services.
7. Aid in the enforcement of all laws of the state for the protection and care of children.
8. Co-operate with the juvenile courts of the state and with the other directors and divisions of the department of human services regarding the management and control of state institutions and the inmates thereof.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 8 amended

CHAPTER 235A

ABUSE OF CHILDREN

235A.1 Child abuse prevention program.

1. A program for the prevention of child abuse is established within the state department of human services. Any moneys appropriated by the general assembly for child abuse prevention shall be used by the department of human services solely for the purposes of child abuse prevention and shall not be expended for treatment or other service delivery programs regularly maintained by the department. Moneys appropriated for child abuse prevention shall be used by the department through contract with an agency or organization which shall administer the funds with maximum use of voluntary administrative services for the following:

- a. Matching federal funds to purchase services relating to community-based programs for the prevention of child abuse and neglect.

b. Funding the establishment or expansion of community-based prevention projects or educational programs for the prevention of child abuse and neglect.

c. To study and evaluate community-based prevention projects and educational programs for the problems of families and children.

Funds for the programs or projects shall be applied for and received by a community-based volunteer coalition or council.

2. The commissioner of human services may accept grants, gifts, and bequests from any source for the purposes designated in subsection 1. The commissioner shall remit funds so received to the treasurer of state who shall deposit them in the general fund of the state for the use of the child abuse prevention program.

3. The child abuse prevention program advisory council is created consisting of five members appointed by and serving at the pleasure of the governor. Two members shall be appointed on the basis of expertise in the area of child abuse and neglect, and three members shall be private citizens. The council shall select its own chairperson and shall serve without compensation or reimbursement for expenses.

4. The advisory council shall:

a. Advise the commissioner of human services and the director of the division of the department of human services responsible for child and family programs regarding expenditures of funds received for the child abuse prevention program.

b. Review the implementation and effectiveness of legislation and administrative rules concerning the child abuse prevention program.

c. Recommend changes in legislation and administrative rules to the general assembly and the appropriate administrative officials.

d. Require reports from state agencies and other entities as necessary to perform its duties.

e. Receive and review complaints from the public concerning the operation and management of the child abuse prevention program.

f. Approve grant proposals.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1, unnumbered paragraph 1, subsection 2, and subsection 4, paragraph a amended

235A.14 Creation and maintenance of a central registry.

1. There is created within the state department of human services a central registry for child abuse information. The department shall organize and staff the registry and adopt rules for its operation.

2. The registry shall collect, maintain and disseminate child abuse information as provided for by this chapter.

3. The department shall maintain a toll-free telephone line, which shall be available on a twenty-four hour a day, seven-day a week basis and which the department of human services and all other persons may use to report cases of suspected child abuse and that all persons authorized by this chapter may use for obtaining child abuse information.

4. An oral report of suspected child abuse initially made to the central registry shall be immediately transmitted by the department to the appropriate county department of social services or law enforcement agency, or both.

5. The registry, upon receipt of a report of suspected child abuse, shall search the records of the registry, and if the records of the registry reveal any previous report of child abuse involving the same child or any other child in the same family, or if the records reveal any other pertinent information with respect to the same child or any other child in the same family, the appropriate office of the department of human services or law enforcement agency shall be immediately notified of that fact.

6. The central registry shall include but not be limited to report data, investigation data and disposition data.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 1, 3, 4 and 5 amended

235A.15 Authorized access.

1. Notwithstanding chapter 68A, the confidentiality of all child abuse information shall be maintained, except as specifically provided by subsection 2.
2. Access to child abuse information is authorized only:
 - a. To a health practitioner who is examining, attending or treating a child whom the practitioner believes or has reason to believe has been the victim of abuse.
 - b. To employees of the department of human services having responsibility for the investigation of a child abuse report.
 - c. To a law enforcement officer having responsibility for the temporary emergency removal of a child from the child's parent or other legal guardian.
 - d. To a juvenile court or district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving child abuse, except that information obtained through the registry shall not be utilized in any aspect of any criminal prosecution.
 - e. To an authorized person or agency having responsibility for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or the registry deems access to child abuse information by such person or agency to be necessary.
 - f. To a person conducting bona fide research on child abuse, if the details identifying any subject of a child abuse report are deleted.
 - g. To a person who is the subject of any report as provided in section 235A.19.
 - h. To registry or department personnel where necessary to the performance of their official duties.
 - i. To a court hearing an appeal for correction or expungement of registry information as provided in section 235A.19.
 - j. In an individual case, to the mandatory reporter who reported the child abuse.
 - k. To a multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the diagnosis, assessment, and disposition of a child abuse case.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, paragraphs b and k amended

235A.18 Sealing and expungement of child abuse information.

1. Child abuse information relating to a particular case of suspected child abuse shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause be shown why the information should remain open to authorized access. If a subsequent report of a suspected case of child abuse involving the child named in the initial report as the victim of abuse or a person named in such report as having abused a child is received by the registry within this ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the information should remain open to authorized access.

2. Child abuse information may be expunged where the probative value of the information is so doubtful as to outweigh its validity. Child abuse information shall be expunged if it is determined to be unfounded as a result of any of the following:

- a. The investigation of a report of suspected child abuse by the department.
- b. A successful appeal as provided in section 235A.19.
- c. A court adjudication.

3. The registry, at least once a year, shall review and determine the current status of child abuse reports which are transmitted or made to the registry after July 1, 1974, which are at least one year old and in connection with which no investigatory report has been filed by the department of human services pursuant to section 232.71. If no such investigatory report has been filed, the registry shall request the department of human services to file a report. In the event a report is not filed within ninety days subsequent to such a request, the report and information relating thereto shall be sealed and remain sealed unless good cause be shown why the information should remain open to authorized access.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 3 amended

235A.24 Council on child abuse information.

1. There is created a council on child abuse information consisting of nine regular members. Two members shall be appointed from the house of representatives by the speaker of the house, no more than one of whom shall be from the same political party. Two members shall be appointed from the senate by the lieutenant governor, no more than one of whom shall be from the same political party. The remaining members of the council shall consist of a judge of the district court appointed by the chief justice of the supreme court, one local law enforcement official appointed by the governor, the commissioner of the department of human services or his designee, and two private citizens not connected with law enforcement appointed by the governor. The council shall select its own chairman. The members shall serve at the pleasure of those by whom their appointments are made.

2. The council shall meet at least annually and at any other time upon the call of the chairman of the council, or any three of its members. Each nonlegislative council member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties from funds appropriated to the department of human services. Each legislative member shall receive expenses pursuant to section 2.10 and section 2.12.

3. The council shall have the following responsibilities and duties:

a. Shall periodically monitor the operation of the child abuse information registry established by this section and sections 235A.12 to 235A.23.

b. Shall review the implementation and effectiveness of legislation and administrative rules concerning the registry.

c. May recommend changes in said legislation and administrative rules to the legislature and the appropriate administrative officials.

d. May require such reports from state agencies as may be necessary to perform its duties.

e. May receive and review complaints from the public concerning the operation of the registry.

(83 Acts, ch 96, § 157, 159) SF 464
Subsections 1 and 2 amended

CHAPTER 235B

ADULT ABUSE

NEW chapter

235B.1 Adult abuse services.

1. As used in this section, "*dependent adult abuse*" means:

a. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(1) Physical injury to or unreasonable confinement or cruel punishment of a dependent adult.

(2) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(3) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

(4) The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health.

b. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

2. Dependent adult abuse does not include:

a. Depriving a dependent adult of medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

b. The withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.

3. The department of human services shall operate a program relating to the providing of services in cases of dependent adult abuse. The program shall emphasize the reporting and evaluation of dependent adult abuse of an adult who is unable to protect the adult's own interests or unable to perform or obtain essential services.

4. a. A person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports pursuant to sections 235A.12 through 235A.24 by expanding the central registry for child abuse to include reports of dependent adult abuse. The department shall evaluate the reports expeditiously. However, the state department of health is solely responsible for the evaluation and disposition of adult abuse cases within health care facilities and shall inform the department of human services of such evaluations and dispositions.

b. The department of human services shall inform the appropriate county attorneys of any reports. County attorneys, law enforcement agencies, multidisciplinary teams as defined in section 235A.13, subsection 9, and social services agencies in the state shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

c. Upon a showing of probable cause that a dependent adult has been abused, a district court may authorize a person, authorized by the department to make an evaluation, to enter the residence of, and to examine the dependent adult.

5. a. If, upon completion of the evaluation or upon referral from the state department of health, the department of human services determines that the best interests of the dependent adult require district court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

b. The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

c. In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the

cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.*

6. The department of human services shall complete an assessment of needed services and shall make appropriate referrals to services. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

7. A person participating in good faith in reporting or cooperating or assisting the department of human services in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

(83 Acts, ch 153, § 4) SF 541

*Court expense fund consolidated with county general fund; 83 Acts, ch 123, § 11, 206 (HF 628)

NEW section

(83 Acts, ch 96, § 159, 160) SF 464

Amended

CHAPTER 236

DOMESTIC ABUSE

236.5 Disposition. Upon a finding that the defendant has engaged in domestic abuse:

1. The court may order that the plaintiff and the defendant receive professional counseling, either from a private source approved by the court or from a source appointed by the court. Costs of counseling shall be paid in full or in part by the parties and taxed as court costs. If the court determines that the parties are unable to pay the costs, they may be paid in full or in part from the county treasury.

2. The court may grant a protection order or approve a consent agreement which may contain but is not limited to any of the following provisions:

a. That the defendant cease domestic abuse of the plaintiff.

b. That the defendant grant possession of the residence to the plaintiff to the exclusion of the defendant or that the defendant provide suitable alternate housing for the plaintiff.

c. That the defendant stay away from the plaintiff's residence, school or place of employment.

d. The awarding of temporary custody of or establishing temporary visitation rights with regard to children under eighteen.

e. That the defendant pay the clerk a sum of money for the separate support and maintenance of the plaintiff and children under eighteen.

An order for counseling, a protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing.

3. An order or consent agreement under this section shall not affect title to real property.

4. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and law enforcement agencies having jurisdiction to enforce the order or consent agreement. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and agencies previously notified.

(83 Acts, ch 123, § 93, 209) HF 628

Subsection 1 amended

236.9 Domestic abuse information. State and local law enforcement agencies shall collect and maintain domestic abuse information. They shall relay this information at least quarterly to the central registry for domestic abuse information within the department of human services.

The registry may compile statistics and issue reports, provided identifying details of the subject of domestic abuse are deleted.

Access to domestic abuse information in the registry is authorized only:

1. To a district court upon a finding that information is necessary for the resolution of an issue arising in a case involving domestic abuse.

2. To a person conducting bona fide research on domestic abuse, if the details identifying a subject of domestic abuse are deleted.

3. To registry or department personnel where necessary to the performance of their official duties.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

CHAPTER 237

CHILD FOSTER CARE FACILITIES

237.1 Definitions. As used in this chapter:

1. "Agency" means a person, as defined in section 4.1, subsection 13, which provides child foster care and which does not meet the definition of an individual in subsection 7.

2. "Child" means child as defined in section 234.1, subsection 4.

3. "Child foster care" means the provision of parental nurturing, including but not limited to the furnishing of food, lodging, training, education, supervision, treatment or other care, to a child on a full-time basis by a person other than a relative or guardian of the child, but does not include:

a. Care furnished by an individual person who receives the child of a personal friend as an occasional and personal guest in the individual person's home, free of charge and not as a business.

b. Care furnished by an individual person with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.

c. Care furnished by a private boarding school subject to approval by the state board of public instruction pursuant to section 257.25.

d. Child day care furnished by a child care center, group day care home, or family day care home as defined in section 237A.1.

4. "Department" means the department of human services.

5. "Director" means the director of that division of the department designated by the commissioner of human services to administer this chapter or the director's designee.

6. "Facility" means the personnel, program, physical plant, and equipment of a licensee.

7. "Individual" means an individual person or a married couple who provides child foster care in a single-family home environment and which does not meet the definition of an agency in subsection 1.

8. "Licensee" means an individual or an agency licensed by the director under this chapter.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 4 and 5 amended

237.3 Rules.

1. Except as otherwise provided by subsections 3 and 4, the director shall promulgate, after their adoption by the council on human services, and enforce in

accordance with chapter 17A, administrative rules necessary to implement this chapter. Formulation of the rules shall include consultation with representatives of child foster care providers, and other persons affected by this chapter. The rules shall encourage the provision of child foster care in a single-family, home environment, exempting the single-family, home facility from inappropriate rules.

2. Rules applicable to licensees shall include but are not limited to:

a. Types of facilities, including but not limited to single-family, home facilities with child foster care provided by individuals and other public and private facilities with child foster care provided by agencies, and other categories of child foster care for which licenses are issued.

b. The number, qualifications, character, and parenting ability of personnel necessary to assure the health, safety and welfare of children receiving child foster care.

c. Programs for education and in-service training of personnel.

d. The physical environment of a facility.

e. Policies for intake, assessment, admission and discharge.

f. Housing, health, safety, and medical-care policies for children receiving child foster care.

g. The adequacy of programs available to children receiving child foster care provided by agencies, including but not limited to:

(1) Dietary services.

(2) Social services.

(3) Activity programs.

(4) Behavior management procedures.

(5) Educational programs, including special education as defined in section 281.2, subsection 2 where appropriate, which are approved by the state board of public instruction. The department shall not promulgate rules which regulate individual licensees in the subject areas enumerated in this paragraph.

h. Policies for involvement of natural parents.

i. Records a licensee is required to keep, and reports a licensee is required to make to the director.

j. Prior to the licensing of an individual as a foster family home, a required, written social assessment of the quality of the living situation in the home of the individual, and a required compilation of personal references for the individual other than those references given by the individual.

3. Rules governing fire safety in facilities with child foster care provided by agencies shall be promulgated by the state fire marshal pursuant to section 100.1, subsection 5 after consultation with the director.

4. Rules governing sanitation, water and waste disposal standards for facilities shall be promulgated by the state department of health pursuant to section 135.11, subsection 15 after consultation with the director.

5. In case of a conflict between rules promulgated pursuant to subsections 3 and 4 and local rules, the more stringent requirement applies.

6. Rules of the department shall not prohibit the licensing, as foster family homes, of individuals who are departmental employees not directly engaged in the administration of the child foster care program pursuant to this chapter.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

CHAPTER 237A

CHILD DAY CARE FACILITIES

(Chapter headnote changed)

237A.1 Definitions. As used in this chapter unless the context otherwise requires:

1. "*Commissioner*" means the commissioner of human services.
2. "*Department*" means the department of human services.
3. "*Director*" means the director of the division designated by the commissioner to administer this chapter.
4. "*County board*" means the county board of social welfare.
5. "*Child*" means a person under eighteen years of age.
6. "*Relative*" means a person who by marriage, blood or adoption is a parent, grandparent, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, or guardian.
7. "*Child day care*" means the care, supervision, or guidance of a child by a person other than the parent, guardian, relative or custodian for periods of two hours or more and less than twenty-four hours per day per child on a regular basis in a place other than the child's home, but does not include:
 - a. An instructional program administered by a public or nonpublic school system approved by the department of public instruction or the state board of regents.
 - b. A church-related instructional program of not more than one day per week.
 - c. Short-term classes held between school terms.
8. "*Child care center*" or "*center*" means a facility providing child day care for seven or more children, except when the facility is registered as a group day care home.
 9. a. "*Family day care home*" means a facility which provides child day care to less than seven children.
 - b. "*Group day care home*" means a facility providing child day care for more than six but less than twelve children, with no more than six children at one time being less than six years of age.
10. "*Child day care facility*" or "*facility*" means a child care center, group day care home, or registered family day care home.
11. "*Licensed center*" means a center issued a full or provisional license by the department under the provisions of this chapter or a center for which a license is being processed.
12. "*Low-income family*" means a family whose monthly gross income is less than the lower of:
 - a. Eighty percent of the median income of a family of four in this state adjusted to take into account the size of the family; or
 - b. The median income of a family of four in the fifty states and the District of Columbia adjusted to take into account the size of the family.
13. "*State day care advisory committee*" means the state day care advisory committee established pursuant to sections 237A.19 to 237A.22.
14. "*Preschool*" means a child day care facility which provides to children ages three through five, for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, social skills and motor skills, and to extend their interest and understanding of the world about them.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 1 and 2 amended

237A.5 Personnel. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a pre-employment physical examination taken within six months prior to beginning employment, including communicable

disease tests by a licensed physician as defined in section 135C.1, at the time of initial employment and every three years thereafter. No staff member of a licensed center or registered group home or a family day care home registered pursuant to section 237A.3, subsection 1, with direct responsibility for child care and no person living in such registered group or family day care home shall have a conviction by any law of any state of a crime involving mistreatment of a child, or violence against a person, or shall have a record of substantiated child sexual abuse or a record of any other type of child abuse substantiated within three years prior to the check of the child abuse registry made by the department pursuant to this chapter.

(83 Acts, ch 153, § 5) SF 541

Amended

237A.8 Suspension and revocation. The director, after notice and opportunity for an evidentiary hearing, may suspend or revoke a license or certificate of registration issued under this chapter if the person to whom a license or certificate is issued violates a provision of this chapter or if the person makes false reports regarding the operation of the child day care facility to the director or a designee. The director shall notify the parent, guardian, or legal custodian of each child for whom the person provides child day care, if the license or certificate of registration is suspended or revoked or if there has been a substantiated child abuse case against an employee, owner, or operator of the child day care facility.

(83 Acts, ch 153, § 6) SF 541

Amended

237A.13 Apportionment of funds. Funds appropriated to the department to assist child care centers shall be apportioned among the counties as follows:

1. Each county shall receive a share of one half of the total amount available for allocation among the counties which share is equivalent to a percentage of the total amount available determined by dividing the state's total population of children under seven years of age into the total number of children under seven years of age residing in the county. Data on the number and places of residence of children under seven years of age shall be derived from the most recent federal decennial census unless the commissioner with approval of the council of human services directs that some other specified source of data be used.

2. Each county shall receive a share of one half of the total amount available for allocation among the counties which share is equivalent to a percentage of the total amount available determined by dividing the total number of low-income families residing in the state into the total number of low-income families residing in the county. Data on the number and the places of residence of low-income families shall be derived from the most recent federal decennial census unless the commissioner with approval of the council of human services directs that some other specified source of data be used.

3. Notwithstanding subsections 1 and 2, no county's initial allocation shall be less than one quarter of one percent of the total amount available for allocation among the counties.

4. Any portion of the amount initially allocated to any county pursuant to subsections 1, 2 and 3 which remains unencumbered as of April 30 of any year shall be reclaimed from the county by the department and immediately reallocated in the manner provided by subsections 1 and 2 among those counties from which funds have not been reclaimed under this subsection. Any portion of the amounts so allocated which remains unencumbered as of June 30 of any year shall revert to the general fund of the state.

(83 Acts, ch 96, § 157, 159) SF 464

Funds unencumbered on April 30, 1984 shall not be reallocated unless they exceed \$2000; 83 Acts, ch 201, § 3(10) (HF 641)

Subsections 1 and 2 amended

237A.20 Injunction. A person who establishes, conducts, manages, or operates a center without a license or a group day care home without a certificate of registration may be restrained by temporary or permanent injunction. The action may be instituted by the state, a political subdivision of the state, or an interested person.

(83 Acts, ch 153, § 7) SF 541

Amended

CHAPTER 238

CHILD-PLACING AGENCIES

238.1 Definitions. The word “*person*” or “*agency*” where used in this chapter shall include individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of any division of the department of human services or any director thereof.

For the purpose of this chapter the word “*director*” or “*state director*” means director of the division of child and family services of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

238.12 Appeal — judicial review. Any licensee feeling himself aggrieved by any decision of the state director revoking his license may appeal to the council of human services in the manner of form prescribed by such council. The council shall, upon receipt of such an appeal give the licensee reasonable notice and opportunity for a fair hearing before such council or its duly authorized representative or representatives. Following such hearing the council of human services shall take its final action and notify the licensee in writing.

Judicial review of the actions of the council may be sought in accordance with the terms of the Iowa administrative procedure Act.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

238.35 Department of human services as public authority. The “appropriate public authorities” as used in article III of the interstate compact on the placement of children shall, with reference to this state, mean the state department of human services and said department shall receive and act with reference to notices required by said article III.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

238.36 Department as authority in receiving state. As used in paragraph “a” of article V of the interstate compact on the placement of children, the phrase “appropriate authority in the receiving state” with reference to this state shall mean the state department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 239

AID TO DEPENDENT CHILDREN

Schedule of basic needs; unemployed parent program; community work program; 83 Acts, ch 201, § 3 (HF 641)

239.1 Definitions. As used in this chapter:

1. "*Division*" or "*state division*" means the division of child and family services of the department of human services; "director" or "state director" means the director of the division of child and family services of the department of human services.

2. "*County board*" means the county board of social welfare provided for in section 234.9.

3. "*Dependent child*" means a needy child who is under the age of eighteen, or a needy person eighteen years of age who meets the additional eligibility criteria established by federal law or regulation, and who has been deprived of parental support or care by reason of death, continued absence from home, physical or mental incapacity, or partial or total unemployment of the parent, and who is living with a relative specified in 42 U.S.C. sec. 606 and in federal regulations adopted pursuant to that section. However, a child is not a dependent child solely by reason of a parent's absence from the home due to the parent's performance of active duty in the uniformed services of the United States.

4. "*Assistance*" means money payments to, or in behalf of, a needy, dependent child or children.

5. "*Recipient*" is the person to whom the assistance grant is made.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

(83 Acts, ch 153, § 8) SF 541

Subsection 3 struck and rewritten

239.2 Eligibility for aid to dependent children. Assistance shall be granted under this chapter to any needy dependent child who:

1. Is living in a suitable family home maintained by one or more of the persons referred to in section 239.1, subsection 3, or has been placed in a foster home or with a public nonprofit agency referred to in such subsection under a plan of care including services designated to improve the conditions of the home from which the child was removed or to otherwise make possible his being placed in the suitable home of a relative referred to in section 239.1, subsection 3, if the placement resulted from judicial proceedings initiated during a month in or for which the child:

a. Was in fact receiving assistance under this chapter; or

b. Would have received assistance under this chapter if application had been made therefor; or

c. Had within six months prior to the month in which the proceedings were initiated been living with a relative referred to in section 239.1, subsection 3, and would have received assistance under this chapter in and for the month in which the proceedings were begun if he had continued to live with that relative and application had been made therefor.

2. Has resided in the state for one year immediately preceding the application for such assistance; or was born within the state within one year immediately preceding the application, if the mother has resided in the state for one year immediately preceding the birth of said child, without regard to the residence of the person or persons with whom said child is living.

3. Is not in a public institution and because of a physical or mental condition, in need of continued care therein.

4. Is not, with respect to assistance applied for by reason of partial or total unemployment of a parent, the child of a parent who:

a. Has been unemployed for less than thirty days prior to receipt of assistance under this chapter.

b. Is partially or totally unemployed due to a work stoppage which exists because of a labor dispute at the factory, establishment or other premises at which the parent is or was last employed.

c. At any time during the thirty-day period prior to receipt of assistance under this chapter or at any time thereafter while assistance is payable under this chapter, has not been available for employment, has not actively sought employment, or has without good cause refused any bona fide offer of employment or training for employment. The following reasons for refusing employment or training are not good cause: Unsuitable or unpleasant work or training, if the parent is able to perform the work or training without unusual danger to the parent's health; or the amount of wages or compensation, unless the wages for employment are below the federal minimum wage.

d. Has not registered for work with the state employment service established pursuant to section 96.12, or thereafter has failed to report at an employment office in accordance with regulations prescribed pursuant to section 96.4, subsection 1.

e. Has failed to participate in or to co-operate in any work or training program made available to the parent under chapter 249C, or has without good cause withdrawn from such program before completion. The department of human services shall have a program under chapter 249C for the partially or totally unemployed parent under this subsection.

The division may prescribe requirements in addition to or in lieu of the foregoing, for eligibility for assistance under this chapter to children whose parents are partially or totally unemployed, which are necessary to secure financial participation of the federal government in payment of such assistance.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 4, paragraph e amended

239.3 Application for assistance — assignment of support rights.

Application for assistance under this chapter shall be made to the county board of the county in which the dependent child resides or will reside in the event assistance is granted. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state director. Such application shall be made by an adult person or a person eighteen years of age or older with whom the dependent child resides or will reside, and shall contain such information as may be required by said application form. One application may be made for several children of the same family if they reside or will reside with the same person.

An applicant for assistance under this chapter and other persons covered by an application are deemed to have assigned to the department of human services at the time of application all rights to periodic support payments to the extent of public assistance received by the applicant and other persons covered by the application. An assignment takes effect upon determination that an applicant or another person covered by an application is eligible for assistance under this chapter, applies to both current and accrued support obligations, and terminates when an applicant or another person covered by an application ceases to receive assistance under this chapter, except with respect to the amount of unpaid support obligations accrued under the assignment. If an applicant or another person covered by an application ceases to receive assistance under this chapter and the applicant or other person covered by the application receives a periodic support payment, the department of human services is entitled only to that amount of the periodic support payment above the current periodic support obligation.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 2 amended

239.5 Granting of assistance and amount of assistance — co-operation of parent. Upon the completion of an investigation the department shall decide whether the child is eligible for assistance under this chapter and determine

the amount of the assistance. The department shall, within thirty days, notify the person with whom the child is living or will be living, of the decision. The department may petition the Iowa district court sitting in probate to establish, pursuant to chapter 633, a conservatorship over any recipient eligible for assistance under this chapter. If a conservatorship is established the recipient's assistance payments shall be made to the conservator. In addition to the assistance granted under this chapter, an amount not to exceed ten dollars per case per month may be allowed for conservatorship or guardianship fees if authorized by court order. The dependent child for whom the grant is made shall be originally charged to the county in which the child resides when application is made.

The county board, in accordance with rules and standards established by the state department of human services, shall fix the amount of assistance necessary for any dependent child. In determining the amount of assistance, the county board shall take into consideration the income and resources of any child or relative claiming assistance under this chapter. However, in fixing the amount of assistance for any child or family, the county board, in accordance with rules established by the state department of human services, may disregard a reasonable amount of the income of the child or the family, in order to encourage the family or any of its members to become self-supporting. The term "income" as used herein means income remaining after deduction of expenses reasonably attributable to the earning or securing of that income.

The county board, under the supervision of the state department of human services, shall establish services to help families and persons receiving assistance under this chapter to become self-supporting; shall participate in the work and training program established by chapter 249C; and shall co-operate with other public agencies and with private agencies to secure employment, education, and vocational training for members of such families. Assistance, when granted, shall be paid monthly to an adult person or a person eighteen years of age or older within the specified degrees of relationship and with whom the child is living, from the fund for aid to dependent children established by this chapter, upon the order of the state division, except that the county board may order the assistance payments made to another individual who is interested in or concerned with the welfare of the child or the person with whom the child is living when it has been demonstrated that the person with whom the child is living is unable to manage the assistance payments in the best interest of the child. Such protective payments shall not be made beyond one year and shall otherwise conform to the regulations established under the provisions of Title IV of the Social Security Act as amended by Public Law 90-248.

No payment for aid to dependent children shall be made unless and until the county board of social welfare, with the advice of the county attorney shall certify that the parent receiving the aid for the children is co-operating in legal actions and other efforts to obtain support money for said children from the persons legally responsible for said support.

The state comptroller shall, no later than January 1, 1977 and upon receipt of a written signed request from the person entitled to receive assistance established by this chapter, order that payments be made directly to a bank, savings and loan association, or credit union of his or her choice.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraphs 2 and 3 amended

239.7 Appeal — judicial review. If an application is not acted upon within a reasonable time, if it is denied in whole or in part, or if any award of assistance is modified, suspended, or canceled under any provision of this chapter, the applicant or recipient may appeal to the department of human services. The department shall give the appellant reasonable notice and opportunity for a fair hearing before the commissioner or his designee. Judicial review of the result of such hearing may be sought in accordance with the terms of the Iowa administrative procedure Act. Upon

receipt of the notice of the filing of a petition for judicial review, the department shall furnish the petitioner with a copy of any papers filed in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

239.9 Funeral Expenses. The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of a child who is receiving or has been authorized to receive assistance under this chapter, provided:

1. The total expense of the child's funeral does not exceed one thousand dollars.
2. The decedent does not leave an estate which may be probated with sufficient proceeds to allow a funeral claim of at least one thousand dollars.
3. Payments which are due the decedent's estate or beneficiary by reason of the liability of a life insurance, death or funeral benefit company, association, or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's liability under this section.

(83 Acts, ch 153, § 9) SF 541

Struck and rewritten

239.12 Aid to dependent children account. There is established in the state treasury an account to be known as the "Aid to Dependent Children Account" to which shall be credited all funds appropriated by the state for the payment of assistance and benefits under this chapter, and all other moneys received at any time for such purposes. Moneys assigned to the department under section 239.12* and received by the child support recovery unit pursuant to section 252B.5 and 42 U.S.C. sec. 664 shall be credited to the account in the fiscal year in which the moneys are received. All assistance and benefits under this chapter shall be paid from the account.

(83 Acts, ch 153, § 10) SF 541

*Incorrect reference; periodic support payments are assigned under section 239.3

Amended

239.18 State control exclusive. Questions of policy and control respecting administration of this chapter shall vest and remain in the state division of child and family services of the department of human services of the state of Iowa and the state director of said division for the purposes of administering all provisions of this chapter. In order to provide a uniform state-wide program for aid to dependent children, the state director shall promulgate such rules and regulations as may be necessary to make the provisions of this chapter uniform in all of the counties of this state.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

239.19 Transfer aid funds to other work incentive programs. The department of human services shall be authorized to transfer such of the aid to dependent children funds in its control to any other department or agency of the state of Iowa for the purpose of providing funds to carry out the work incentive program created by Public Law 90-248, 81 Stat. 821, Title II, section 204, the Social Security Amendments of 1967 to the Social Security Act, and nothing in the laws of the state of Iowa shall be construed as limiting the authority granted by that Act.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 239A

PUBLIC WORKS POSITIONS FOR CERTAIN PERSONS

239A.2 Projects determined. The Iowa department of job service, in consultation with the commissioner of human services, shall establish a procedure for assignment of persons referred under section 239A.1 to positions available in public works projects. The Iowa department of job service shall arrange with units of local government for establishment of such projects, which may include any type of work or endeavor that is within the scope of authority of the unit of local government involved so long as the project meets the following requirements:

1. The project must create new employment opportunities and not fund existing employment of persons working for the local government unit or resume funding of projects for which the local government unit has, without fault, terminated employees within the previous six months and has not recalled those employees.
2. The benefits of the project result must inure primarily to the community or public at large.
3. The following conditions of employment must be satisfied:
 - a. The unit of local government with which the project is arranged must be the employer of the persons hired under the project.
 - b. The employees under the project must be paid at the same rate as other employees doing similar work for that unit of local government.
 - c. The employees must be considered regular employees of the unit of local government involved and must be entitled to participate in benefit programs of that unit of local government, including but not limited to workers' compensation, but shall not be entitled to qualify for unemployment compensation benefits on the basis of employment under the project.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

CHAPTER 241

DISPLACED HOMEMAKERS

241.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Displaced homemaker*" means an individual who meets all of the following criteria:
 - a. Has worked principally in the home providing unpaid household services for family members.
 - b. Is not gainfully employed.
 - c. Has had, or would apparently have, difficulty finding appropriate paid employment.
 - d. Has been dependent on the income of another family member but is no longer supported by that income, is or has been dependent on government assistance, or is supported as the parent of a child who is sixteen or seventeen years of age.
2. "*Department*" means the department of human services.
3. "*Commissioner*" means the commissioner of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 2 and 3 amended

241.4 Advisory board — membership.

1. The governor shall appoint a seven-member advisory board. Persons appointed to the advisory board shall be knowledgeable in the problems of displaced homemakers. Three members of the advisory board shall be representatives of community organizations which provide services to displaced homemakers. Two members shall

be displaced homemakers or former displaced homemakers. Two members shall be members of the public. Of the seven members, no more than four shall be from the same political party. The board shall select its own chairperson. Four members constitute a quorum. Members serve at the pleasure of the governor.

2. The board shall meet at the call of the governor, or the board chairperson, or of any four board members. Each board member is entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties from funds appropriated to the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2 amended

CHAPTER 242

TRAINING SCHOOL

242.1 Official designation. The training school for juvenile delinquents at Eldora and the unit for delinquent juveniles at the Iowa juvenile home at Toledo shall together be known as the "state training school". For the purpose of this chapter the word "director" or "state director" shall mean the director of the division of child and family services of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

242.15 Transfers to work in parks. The state director may detail boys and girls, classed as trustworthy, from the state training school, to perform services for the state conservation commission within the state parks, state game and forest areas and other lands under the jurisdiction of the commission. The conservation commission shall provide permanent housing and work guidance supervision, but the care and custody of the boys and girls so detailed shall remain under employees of the division of child and family services of the department of human services. All such programs shall have as their primary purpose and shall provide for inculcation or the activation of attitudes, skills and habit patterns which will be conducive to the habilitation of the youths involved.

The state director is hereby authorized to use state-owned mobile housing equipment and facilities in performing such services at temporary locations in the above areas.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

CHAPTER 244

IOWA JUVENILE HOME

244.1 Definitions — objects. For the purpose of this chapter, unless the context otherwise requires:

1. "Director" or "state director" means the director of the division of child and family services of the department of human services.

2. "Home" means the Iowa juvenile home.

3. "Superintendent" means the superintendent of the Iowa juvenile home.

The Iowa juvenile home shall be maintained for the purpose of providing care, custody and education of such children as are committed to the home. Such children shall be wards of the state. Their education shall embrace instruction in the common school branches and in such other higher branches as may be practical and will enable the children to gain useful and self-sustaining employment. The state director and the superintendent of the home shall assist all discharged children in securing suitable homes and proper employment.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

244.5 Transfers. The state director may transfer to the home minor wards of the state from any institution under the state director's charge or under the charge of any other director of the department of human services; but no person shall be so transferred who is not mentally normal, or who is incorrigible, or has any vicious habits, or whose presence in the home would be inimical to the moral or physical welfare of normal children therein, and any such child in the home may be transferred to the proper state institution.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

244.14 Counties liable. Each county is liable for sums paid by the home in support of all its children to the extent of a sum equal to one-half of the net cost of the support and maintenance of its children. The superintendent shall certify to the state comptroller on the first day of each fiscal quarter the amount chargeable to each county for support. The sums for which each county is liable shall be charged to the county and collected as a part of the taxes due the state, and paid by the county at the same time state taxes are paid.

Should any county fail to pay these bills within sixty days from the date of certificate from superintendent, the state comptroller shall charge the delinquent county the penalty of one percent per month on and after sixty days from date of certificate until paid. Such penalties shall be credited to the general fund of the state.

(83 Acts, ch 123, § 94, 209) HF 628

Unnumbered paragraph 1 amended

CHAPTER 245

WOMEN'S CORRECTIONAL FACILITIES

245.1 Official designation — definitions. The state correctional facility for women at Mitchellville shall be known as the "Iowa correctional institution for women". For the purpose of this chapter "*director*" or "*state director*" means the director of the Iowa department of corrections.

(83 Acts, ch 96, § 80, 157, 159) SF 464

Effective October 1, 1983

Amended

245.2 Superintendent — salary. The superintendent of the Iowa correctional institution for women shall receive a salary as determined by the state director.

(83 Acts, ch 101, § 45) SF 136

Amended

(83 Acts, ch 96, § 81, 159) SF 464

Effective October 1, 1983

Amended; identical amendments

245.3 Service required. The superintendent may, with the approval of the director, require an inmate to perform any service suited to her strength and attainments and which may be needed for the benefit of the Iowa correctional institution for women or for the welfare of the inmate.

(83 Acts, ch 101, § 46) SF 136

Amended

(83 Acts, ch 96, § 82, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

245.4 Employees to receive a midshift meal. The employees of the Iowa correctional institution for women shall receive a midshift meal when on duty.

(83 Acts, ch 101, § 47) SF 136

Amended

(83 Acts, ch 96, § 83, 159) SF 464

Effective October 1, 1983

Amended; identical amendments

245.7 Term of commitments. A female convicted of a felony shall not be detained in the Iowa correctional institution for women under one commitment for a period longer than the maximum term of imprisonment provided by law for the felony. A female convicted of a crime and sentenced to a term of less than one year shall not be detained in that institution.

(83 Acts, ch 101, § 48) SF 136

Amended

(83 Acts, ch 96, § 84, 159) SF 464

Effective October 1, 1983

Amended; identical amendments

245.8 Manner of committing females. Females committed to the Iowa correctional institution for women shall be taken to the institution by a woman, or by a peace officer accompanied by a woman, appointed by the court.

(83 Acts, ch 101, § 49) SF 136

Amended

(83 Acts, ch 96, § 85, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

245.9 Costs of commitment. The costs and expenses allowed for taking females to the Iowa correctional institution for women shall be the same as those allowed by law for taking girls to the training school, and shall be audited and paid in like manner by the counties from which they are sent.

(83 Acts, ch 101, § 50) SF 136

Amended

(83 Acts, ch 96, § 86, 159) SF 464

Effective October 1, 1983

Amended; identical amendments

245.10 Transfer of inmates — costs. The state director in co-operation with the commissioner of the department of human services and the directors of the other divisions of the department of human services may transfer inmates from the Iowa correctional institution for women to the state training school, and from the state training school to the Iowa correctional institution for women, whenever such course will be conducive to the welfare of the institution or school or of the other inmates in the institution or school, or of the inmates so transferred. The costs of the transfer shall be paid from the funds of the institution or school from which the transfer is made.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

245.12 Transfer of mentally ill. The director may cause any woman committed to the Iowa correctional institution for women and suspected of being mentally ill to be examined by one of the superintendents or the superintendent's qualified designee of a state hospital for the mentally ill or transferred to the Iowa security and medical facility for examination. If the woman is found to be mentally ill, the Iowa department of corrections may order the woman transferred to or retained at a state hospital or the Iowa security and medical facility where she shall thereafter be maintained and treated at the expense of the state until she regains good mental health when she shall be returned to the Iowa correctional institution for women. The cost of transfer and return shall be paid as provided for other transfers.

(83 Acts, ch 101, § 51) SF 136

Amended

(83 Acts, ch 96, § 87, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

245.15 Escape. Any inmate of the Iowa correctional institution for women who escapes from it may be arrested and returned to the institution, by an officer or employee of the institution without any other authority than this chapter, and by any peace officer or other person on the request in writing of the superintendent or the state director.

(83 Acts, ch 101, § 52) SF 136

Amended

(83 Acts, ch 96, § 88, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

245.20 Federal prisoners. Female inmates sentenced for any term by any court of the United States may be received by the superintendent into the Iowa correctional institution for women and there kept pursuant to their sentences. Inmates at the institution may also be transferred to the federal bureau of prisons.

(83 Acts, ch 101, § 53) SF 136

Amended

(83 Acts, ch 96, § 89, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

CHAPTER 246

MEN'S CORRECTIONAL FACILITIES

246.1 Definitions. For the purpose of this chapter "director" or "state director" means the director of the Iowa department of corrections, or that director's designee.

(83 Acts, ch 96, § 90, 159) SF 464

Effective October 1, 1983

Amended

246.11 Federal prisoners. Male inmates sentenced for any term by any court of the United States may be received by the warden into the penitentiary or the men's reformatory and there kept in pursuance of their sentences. Inmates at either the penitentiary or men's reformatory may also be transferred to the federal bureau of prisons.

(83 Acts, ch 96, § 91, 159) SF 464

Effective October 1, 1983

Amended

246.16 Transfer of mentally ill. When the state director has cause to believe that a prisoner in the penitentiary or reformatory is mentally ill, the Iowa department of corrections may cause that prisoner to be transferred to the Iowa security and medical facility for examination, diagnosis, or treatment. The prisoner shall be confined at that institution or a state hospital for the mentally ill until the expiration of the prisoner's sentence or until the prisoner is pronounced in good mental health. If the prisoner is pronounced in good mental health before the expiration of the prisoner's sentence, the prisoner shall be returned to the penitentiary or reformatory until the expiration of the prisoner's sentence. The provisions of the Code applicable to an inmate at the correctional institution from which the prisoner is transferred remain applicable during the inmate's stay at the Iowa security and medical facility. However, section 246.32 applies to the total inmate population, including both convicts and patients.

(83 Acts, ch 96, § 92, 159) SF 464

Effective October 1, 1983

Amended

246.18 Employment of prisoners — institutions and parks. Transferred to § 217A.78.

See Code editor's note to section 217A.78 at the end of this Supplement

246.19 Erections or repairs at other institutions. Repealed by 83 Acts, ch 51, § 8. (SF 503)

Effective May 6, 1983

246.25 Limitation on contract. Transferred to § 217A.79.

See Code editor's note to section 217A.79 at the end of this Supplement

246.38 Time to be served — credit. Repealed by 83 Acts, ch 147, § 13, 14. (SF 302)

Remains in effect for persons sentenced for offenses committed prior to July 1, 1983; see § 903A.6 in this Supplement

246.39 Reduction of sentence. Repealed by 83 Acts, ch 147, § 13, 14. (SF 302)

Remains in effect for persons sentenced for offenses committed prior to July 1, 1983; see § 903A.6 in this Supplement

246.41 Forfeiture of reduction. Repealed by 83 Acts, ch 147, § 13, 14. (SF 302)

Remains in effect for persons sentenced for offenses committed prior to July 1, 1983; see § 903A.6 in this Supplement

246.42 Separate sentences. Repealed by 83 Acts, ch 147, § 13, 14. (SF 302)

Remains in effect for persons sentenced for offenses committed prior to July 1, 1983; see § 903A.6 in this Supplement

246.43 Special reduction. Repealed by 83 Acts, ch 147, § 13, 14. (SF 302)

Remains in effect for persons sentenced for offenses committed prior to July 1, 1983; see § 903A.6 in this Supplement

246.45 Applicability to other institutions. Repealed by 83 Acts, ch 147, § 13, 14. (SF 302)

Remains in effect for persons sentenced for offenses committed prior to July 1, 1983; see § 903A.6 in this Supplement

246.48 Special treatment unit for corrections inmates.

1. The medium security correctional facility at Mount Pleasant shall be utilized as a secure facility for treatment of inmates of adult correctional institutions who exhibit treatable personality disorders, with or without accompanying history of drug or alcohol abuse. Such inmates may apply for and upon their application may be selected for treatment by the staff of the treatment facility at Mount Pleasant in accordance with section 217A.31.

2. The director shall co-ordinate with the division of mental health of the department of human services and the state psychiatric hospital at Iowa City in the creation, staffing and operation of a research and treatment program directed at the class of disorders described in subsection 1, which program shall be operated at the medium security correctional facility at Mount Pleasant.

3. The final decision regarding admission and discharge of patients of the treatment facility operated under this section shall rest with the director. Upon discharge, the patients of the treatment facility shall be transferred or placed as determined by the director.

(83 Acts, ch 96, § 96, 157, 159) SF 464

Amendment to subsection 1 effective October 1, 1983

Subsections 1 and 2 amended

246.50 Clarinda correctional facility. The state correctional facility for men at Clarinda shall be known as the "Clarinda correctional facility". The facility shall be utilized as a secure men's correctional facility primarily for chemically dependent, mentally retarded, and socially inadequate offenders, and shall be operated by the director in accordance with this chapter.

(83 Acts, ch 203, § 17) SF 532

NEW section

CHAPTER 246A CORRECTIONAL RELEASE CENTER

(HALFWAY HOUSE)

246A.1 Established by department of corrections. The Iowa department of corrections may establish a facility for the preparation of inmates of the corrective institutions under the department's jurisdiction, for discharge or parole. The facility shall be known as the correctional release center.

(83 Acts, ch 96, § 97, 159) SF 464

Effective October 1, 1983

Amended

246A.2 Superintendent. The director of the Iowa department of corrections, subject to approval of the board of corrections, shall appoint a superintendent who shall serve as the chief executive of the correctional release center. The superintendent shall be a reputable and qualified person experienced in the administration of programs for the rehabilitation and preparation of inmates for their return to society.

(83 Acts, ch 96, § 98, 159) SF 464

Effective October 1, 1983

Amended

246A.3 Transfer of prisoners to center. The Iowa department of corrections may transfer any inmate of a corrective institution within ninety days of the inmate's approaching release from custody to the release center for intensive training to assist the inmate in the transition to civilian living.

(83 Acts, ch 96, § 99, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 247

PAROLES

247.22 Powers of board and chief parole officer. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

247.23 Expense. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

247.29 Criminal statistics. The clerk of the district court, on or before July 15 of each year, shall report to the supreme court, the board of parole, and the director of the Iowa department of corrections all of the following information for the preceding fiscal year:

1. The number of convictions of all criminal offenses, the character of each offense, the sentence imposed, the occupation of the offender, and whether or not the offender can read or write.

2. The number of acquittals in criminal cases.
3. The number of dismissals by the court without trial, and the nature of the charges so dismissed in criminal cases.
4. The expenses for criminal prosecutions.

(83 Acts, ch 186, § 10059, 10201) SF 495

Amended

(83 Acts, ch 96, § 100, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Unnumbered paragraph 1 amended

247.30 Itemization of statistics. The information required by section 247.29, subsection 4, shall be itemized as follows:

1. Fees and mileage paid to jurors.
2. The cost of meals and lodging for jurors.
3. The amount expended by the county in each of the following categories, as reported to the clerk by the county auditor, and whether or not recovered from defendants:
 - a. The cost for the services of bailiffs while attending the grand jury or trials of actions.
 - b. Fees and mileage paid to members of the grand jury, the clerk of the grand jury, and witnesses before the grand jury.
 - c. Fees and mileage paid to witnesses in the trial of actions.
 - d. Fees paid for court reporting and for transcriptions of the notes of court reporters.
 - e. The costs of depositions.
 - f. The expense of providing a jail, not including board of prisoners.
 - g. The expense of the board of prisoners in a county jail.
 - h. The expense of transporting prisoners to state correctional institutions.
 - i. The compensation and expenses incurred by the office of the county attorney in connection with criminal prosecutions.

(83 Acts, ch 186, § 10060, 10201) SF 495

Struck and rewritten

247.31 Auditor to report statistics to clerk. The county auditor shall report to the clerk of the district court, on or before July 5 of each year, the expenses of the county in connection with criminal prosecutions during the preceding fiscal year. The report shall include all the items of criminal expenses which are required to be reported by the clerk of the district court under section 247.30 and which appear in the records of the county auditor. The clerk of the district court shall furnish the auditor with the blanks to be used in making this report.

(83 Acts, ch 186, § 10061, 10201) SF 495

Amended

(83 Acts, ch 96, § 101, 159) SF 464

Effective October 1, 1983

See Code editor's note at the end of this Supplement

Amended

247.32 Biannual reports. The board of parole and the judicial district departments of correctional services shall make detailed reports to the director of the Iowa department of corrections as requested by the director and the director shall forward the reports along with personal recommendations to the board of corrections of the Iowa department of corrections. The board of corrections in turn shall, biannually, at the time provided by law, report to the governor a summary of paroles granted and releases recommended, the names of all inmates who have violated their paroles, and other information concerning this departmental operation as deemed advisable, including an abstract for each year of the returns relative to criminal matters.

(83 Acts, ch 96, § 102, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 247A

WORK RELEASE FOR INMATES OF INSTITUTIONS

247A.2 Program. The Iowa department of corrections shall establish a work release program under which inmates sentenced to an institution under the jurisdiction of the department may be granted the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions the program may also include release for the purpose of seeking employment and attendance at an educational institution. In the case of inmates who have children in their homes under the age of eighteen years, the program may include child care and housekeeping in their homes.

(83 Acts, ch 96, § 103, 159) SF 464

Effective October 1, 1983

Amended

247A.3 Committee. A committee shall be designated by the Iowa department of corrections consisting of one member of the parole board or its designee, one representative of the Iowa department of corrections, and one representative of the institution in which the inmate is confined at the time of application.

(83 Acts, ch 96, § 104, 159) SF 464

Effective October 1, 1983

Amended

247A.5 Housing facilities — halfway houses. Unless the inmate is transferred to the correctional release center, or returns after working hours to the institution under jurisdiction of the department of corrections, the department of corrections shall contract with a judicial district department of correctional services for the quartering and supervision of the inmate in local housing facilities. The committee shall include as a specific term or condition in the work release plan of any inmate the place where the inmate is to be housed when not on the work assignment. The committee shall not place an inmate on work release for longer than six months in any twelve-month period. However, an inmate may be placed on work release for a period in excess of six months in any twelve-month period if unanimous approval is given by the committee. Inmates may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic, and recreational activities when it is determined that the participation will directly facilitate the release transition from institution to community. The department of corrections shall provide a copy of the work release plan and a copy of any restitution plan of payment to the judicial district department of correctional services quartering and supervising the inmate.

(83 Acts, ch 96, § 105, 159) SF 464

Effective October 1, 1983

Amended

247A.7 Surrender of earnings. An inmate employed in the community under a work release plan shall surrender to the institution from which released his total earnings less payroll deductions required by law. The institution shall deduct from such earnings in the following order of priority:

1. An amount determined to be the cost to the judicial district department of correctional services for providing food, lodging and clothing for the inmate while under the program. The judicial district department of correctional services shall be reimbursed this amount unless the contract with the department of corrections provides otherwise.

2. The actual and necessary food, travel and other expenses of the inmate when released from actual confinement under the program.

3. An amount the inmate may be legally obligated to pay for the support of his dependents, the amount of which shall be paid to the dependents through the local department of human services in the county or city in which the dependents reside.

4. Court costs.

Any balance remaining after deductions and payments shall be credited to the inmate's personal account at the institution and shall be paid to him upon release. Any inmate so employed shall be paid a fair and reasonable wage in accordance with the prevailing wage scale for such work and shall work at fair and reasonable hours per day and per week.

(83 Acts, ch 96, § 106, 157, 159) SF 464
Amendment to subsection 1 effective October 1, 1983
Subsections 1 and 3 amended

247A.8 Status of inmates on work release. An inmate employed in the community under this chapter is not an agent, employee, or involuntary servant of the department of corrections nor the judicial district department of correctional services while released from confinement under the terms of a work release plan. If an inmate suffers an injury arising out of or in the course of the inmate's employment under this chapter, the inmate's recovery shall be from the insurance carrier of the employer of the project and no proceedings for compensation shall be maintained against the insurance carrier of the state institution, the state, the insurance carrier of the judicial district department of correctional services, or the judicial district department of correctional services, and there is no employer-employee relationship between the inmate and the state institution or the judicial district department of correctional services.

(83 Acts, ch 96, § 107, 159) SF 464
Effective October 1, 1983
Amended

247A.9 Parole not affected. This chapter does not affect eligibility for parole under chapter 906 or diminution of confinement of any inmate released under a work release plan.

(83 Acts, ch 101, § 55) SF 136
Amended

247A.10 Alleged work release violators — reimbursement to counties for temporary confinement. The Iowa department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of the director of the Iowa department of corrections or who are housed or supervised by the judicial district department of correctional services. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the Iowa department of corrections.

(83 Acts, ch 123, § 95, 209) HF 628
Amended
(83 Acts, ch 96, § 108, 159) SF 464
Effective October 1, 1983
See Code editor's note to section 12.10 at the end of this Supplement
Amended

247A.11 Work release violators — reimbursement to the department of corrections for transportation costs. A work release client who escapes or participates in an act of absconding from the facility the client is assigned to shall reimburse the department of corrections for the cost of transportation incurred because of the escape or act of absconding. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the billing occurred. The director of the department of corrections shall recommend rules pursuant to chapter 17A, subject to approval by the board of corrections pursuant to section 217A.5, subsection 6,* to implement this section.

(83 Acts, ch 51, § 1, 7, 9) SF 503
Effective May 6, 1983
NEW section
(83 Acts, ch 96, § 159, 160) SF 464
Effective October 1, 1983
*New chapter 217A in this Supplement
Amended

CHAPTER 249

STATE SUPPLEMENTAL ASSISTANCE TO CERTAIN PERSONS

249.1 Definitions. As used in this chapter:

1. "*Federal supplemental security income*" means cash payments made to individuals by the United States government under Title XVI of the Social Security Act as amended by United States public law 92-603, or any other amendments thereto.

2. "*State supplementary assistance*" means cash payments made to individuals:

a. By the United States government on behalf of the state of Iowa pursuant to section 249.2.

b. By the state of Iowa directly pursuant to sections 249.3 to 249.5.

3. "*Previous categorical assistance programs*" means the aid to the blind program authorized by chapter 241, the aid to the disabled program authorized by chapter 241A and the old-age assistance program authorized by chapter 249 of the Code of 1973.

4. "*Commissioner*" means the commissioner of human services.

5. "*Department*" means the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 4 and 5 amended

249.2 Agreement with federal authority. The commissioner may enter into an agreement with the United States secretary of health and human services for federal administration of a program of state supplementary assistance to prescribed categories of persons who are, or would be except for the amount of income they receive from other sources, receiving federal supplemental security income. The agreement may authorize the secretary to make rules, in addition to and not in conflict with state laws and regulations, respecting eligibility for or the amount of state supplementary assistance paid under this section as the secretary finds necessary to achieve efficient and effective administration of both the basic federal supplemental security income program and the state supplementary assistance program administered by the secretary under the agreement. The agreement shall provide for the state of Iowa to reimburse the federal government, from funds appropriated for that purpose, for state supplementary assistance paid by the federal government pursuant to the agreement.

(83 Acts, ch 101, § 56) SF 136

Amended

249.4 Application — amount of grant. Applications for state supplementary assistance shall be made in the form and manner prescribed by the commissioner or his designee, with the approval of the council on human services, pursuant to chapter 17A. Each person who so applies and is found eligible under section 249.3 shall, so long as his eligibility continues, receive state supplementary assistance on a monthly basis, from funds appropriated to the department for the purpose.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

249.9 Funeral expenses. The department may pay, from funds appropriated to it for the purpose, a maximum of four hundred dollars toward funeral expenses on the death of a person receiving state supplementary assistance or who received assistance under a previous categorical assistance program prior to January 1, 1974, provided:

1. The total expense of the person's funeral does not exceed one thousand dollars.

2. The decedent does not leave an estate which may be probated with sufficient proceeds to allow a funeral claim of at least one thousand dollars.

3. Payments which are due the decedent's estate or beneficiary by reason of the

liability of a life insurance, death or funeral benefit company, association or society, or in the form of United States social security, railroad retirement, or veterans' benefits upon the death of the decedent, are deducted from the department's liability under this section.

(83 Acts, ch 153, § 11) SF 541

Amended

249.12 Cost-related system. In order to assure that the necessary data is available to aid the general assembly to determine appropriate funding for the custodial care program, the department of human services shall develop a cost-related system for financial supplementation to individuals who need custodial care and who have insufficient resources to purchase the care needed.

All privately operated licensed custodial facilities in Iowa shall co-operate with the department of social services to develop the cost-related plan. After the plan is implemented, state supplemental funds shall not be used for the care of any individual in facilities that have not submitted cost statements to the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

249.14 Old-age assistance revolving fund. The old-age assistance revolving fund shall remain in the state treasury until all property managed by the department and maintained by the fund is disposed of, at which time all money in the fund shall be transferred to the general fund of the state and the fund shall be closed. If the balance of the fund exceeds fifteen thousand dollars at the end of any calendar quarter, the excess over that amount shall be transferred to the general fund of the state.

(83 Acts, ch 191, § 2, 27) HF 184

Effective April 14, 1983

NEW section

CHAPTER 249A

MEDICAL ASSISTANCE

249A.2 Definitions. When used herein:

1. The terms "*department*" or "*state department*" shall mean the state department of human services.

2. The term "*commissioner*" shall mean the commissioner of the department of human services.

3. The term "*county board*" shall mean the county board of social welfare created by chapter 234.1.

4. "*Recipient*" shall mean a person who receives medical assistance under this chapter.

5. "*Medical assistance*" shall mean payment of all or part of the costs of the care and services enumerated in Title XIX, United States Social Security Act, section 1905(a), paragraphs (1) through (5), inclusive [Title XLII, United States Code, section 1396d(a), paragraphs (1) through (5), inclusive], as amended to January 15, 1974.

6. "*Additional medical assistance*" shall mean payment of all or part of the costs of any or all of the care and services enumerated in Title XIX, United States Social Security Act, section 1905(a), paragraphs (6), (7), and (9) to (17) [Title XLII, United States Code, section 1396d(a), paragraphs (6), (7), and (9) to (17)], as amended to January 15, 1974.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 1 and 2 amended

249A.4 Duties of commissioner. The commissioner shall be responsible for the effective and impartial administration of this chapter and shall, in accordance with the standards and priorities established by this chapter, by applicable federal law, particularly Title XIX of the United States Social Security Act [Title XLII, United States Code, sections 1396 to 1396g], as amended to January 1, 1973, by the regulations and directives issued pursuant thereto, and by the state plan approved in accordance therewith, make rules, establish policies, and prescribe procedures to implement this chapter. Without limiting the generality of the foregoing delegation of authority, the commissioner is hereby specifically empowered and directed to:

1. Determine the greatest amount, duration, and scope of assistance which may be provided, and the broadest range of eligible individuals to whom assistance may effectively be provided, under this chapter within the limitations of available funds. In so doing, the commissioner shall at least every six months evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing a like program, compare such probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period, and expand or curtail the program accordingly; provided that reimbursement for medical and health services shall be made in accordance with subsection 9. After each evaluation of the scope of the program, the commissioner shall report to the general assembly through the legislative council or in another manner as the general assembly may by resolution direct.

2. Have authority to determine, when available funds permit expansion of the program provided under this chapter beyond the minimum scope required by subsection 1 of this section, whether priority shall be given to providing additional medical assistance to the individuals and families described in section 249A.3, subsection 1, or to providing medical assistance to some or all of the individuals and families described in section 249A.3, subsection 2, unless the general assembly has by law made such determination.

3. Have authority to provide for payment under this chapter of assistance rendered to any applicant prior to the date his application is filed.

4. Have authority to contract with any corporation authorized to engage in this state in insuring groups or individuals for all or part of the cost of medical, hospital, or other health care or with any corporation maintaining and operating a medical, hospital, or health service prepayment plan under the provisions of chapter 514 or with any health maintenance organization authorized to operate in this state, for any or all of the benefits to which any recipients are entitled under this chapter to be provided by such corporation or health maintenance organization on a prepaid individual or group basis.

5. May, to the extent possible, contract with a private organization or organizations whereby such organization will handle the processing of and the payment of claims for services rendered under the provisions of this chapter and under such rules and regulations as shall be promulgated by such department. The state department may give due consideration to the advantages of contracting with any organization which may be serving in Iowa as "intermediary" or "carrier" under Title XVIII of the federal Social Security Act, as amended.

6. Shall co-operate with any agency of the state or federal government in any manner as may be necessary to qualify for federal aid and assistance for medical assistance in conformity with the provisions of chapter 249, this chapter and Titles XVI and XIX of the federal Social Security Act, as amended.

7. Shall provide for the professional freedom of those licensed practitioners who determine the need for or provide medical care and services, and shall provide freedom of choice to recipients to select the provider of care and services, except when the recipient is eligible for participation in a health maintenance organization or prepaid health plan which limits provider selection and which is approved by the department. However, this shall not limit the freedom of choice to recipients to select

providers in instances where such provider services are eligible for reimbursement under the medical assistance program but are not provided under the health maintenance organization or under the prepaid health plan, or where the recipient has an already established program of specialized medical care with a particular provider. The department may also restrict the recipient's selection of providers to control the individual recipient's overuse of care and services, provided the department can document this overuse. The department shall promulgate rules for determining the overuse of services, including rights of appeal by the recipient.

8. Shall advise and consult at least semiannually with a council composed of the president, or the president's representative who is a member of the professional organization represented by the president, of the Iowa medical society, the Iowa society of osteopathic physicians and surgeons, the Iowa state dental society, the Iowa state nurses association, the Iowa pharmacists association, the Iowa podiatry society, the Iowa optometric association, the community mental health centers association of Iowa, the Iowa psychological association, the Iowa hospital association, the Iowa osteopathic hospital association, opticians' association of Iowa, Inc., the Iowa health care association, the Iowa assembly of home health agencies, the Iowa council of health care centers, and the Iowa association of homes for the aging, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the lieutenant governor, each for a term of two years; the president or the president's representative of the association for retarded citizens; four public representatives, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of or have a pecuniary interest in any of the professions or businesses represented by any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the commissioner of public health, or a representative designated by the commissioner, and the dean of the college of medicine, university of Iowa, or a representative designated by the dean.

For each council meeting, other than those held during the time the general assembly is in session, each legislative member of the council shall be reimbursed for actual traveling and other necessary expenses and shall receive a per diem of forty dollars for each day in attendance, as shall the public representatives, regardless of whether the general assembly is in session.

9. Determine the method and level of reimbursement for all medical and health services referred to in section 249A.2, subsection 5 or 6, after considering all of the following:

a. The promotion of efficient and cost-effective delivery of medical and health services.

b. Compliance with federal law and regulations.

c. The level of state and federal appropriations for medical assistance.

d. Reimbursement at a level as near as possible to actual costs and charges after priority is given to the considerations in paragraphs "a", "b", and "c".

10. Shall provide for granting an opportunity for a fair hearing before the commissioner of the department of human services or his authorized representative to any individual whose claim for medical assistance under this chapter is denied or is not acted upon with reasonable promptness.

Judicial review of the actions of the commissioner or department may be sought in accordance with the terms of the Iowa administrative procedure Act. In the event a petition for judicial review is filed, the commissioner or his authorized representative shall furnish the petitioner with a copy of the application and all supporting papers, a transcript of the testimony taken at the hearing, if any, and a copy of its decision.

(83 Acts, ch 153, § 12, 13) SF 541

Subsection 7 and subsection 8, unnumbered paragraph 1 amended

(83 Acts, ch 201, § 13) HF 641

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 8, unnumbered paragraph 1 amended

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 10 amended

249A.5 Recovery of payment. Medical assistance paid to, or on behalf of, a recipient or paid to a provider of services is not recoverable unless the assistance was incorrectly paid. Assistance incorrectly paid is recoverable from the provider, or from the recipient, while living, as a debt due the state and, upon the recipient's death, as a claim classified with taxes having preference under the laws of this state.

(83 Acts, ch 153, § 14) SF 541

Amended

249A.6 Subrogation.

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department is subrogated, to the extent of those payments, to all monetary claims which the recipient may have against third parties as a result of the medical care or expenses received or incurred. A compromise, including but not limited to a settlement, waiver or release, of a claim to which the department is subrogated under this section does not defeat the department's right of recovery except pursuant to the written agreement of the commissioner or the commissioner's designee or except as provided in this section.

2. The department shall be given notice of monetary claims against third parties as follows:

a. Applicants for medical assistance shall notify the department of any possible claims against third parties upon submitting the application. Recipients of medical assistance shall notify the department of any possible claims when those claims arise.

b. A person who provides health care services to a person receiving assistance through the medical assistance program shall notify the department whenever the person has reason to believe that third parties may be liable for payment of the costs of those health care services.

c. An attorney representing an applicant for or recipient of assistance on a claim to which the department is subrogated under this section shall notify the department of the claim of which the attorney has actual knowledge, prior to filing a claim, commencing an action or negotiating a settlement offer.

The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or district office location, is adequate legal notice of the claim.

3. The subrogation rights of the department are valid and binding on an attorney, insurer, or other third party only upon notice by the department or unless the insurer or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which the attorney, insurer, or third party has not made payment to the recipient or an assignee of the recipient prior to the notice. Payment of benefits by an insurer or third party pursuant to the subrogation rights of this section discharges the attorney, insurer, or third party from liability to the recipient or the recipient's assignee to the extent of the payment to the department.

4. If a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department is subrogated under this section, upon the receipt of a judgment or settlement of the claim, the court costs and reasonable attorney fees shall first be deducted from the judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the recipient. From the remaining balance, the claim of the department shall be paid. Any amount remaining shall be paid to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim to which the department is subrogated shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

5. For purposes of this section the term "third party" includes an attorney,

individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for or recipient of assistance under the medical assistance program.

(83 Acts, ch 120, § 1) SF 498

Subsections 1, 2, 3 and 5 amended

(83 Acts, ch 153, § 15) SF 541

Subsection 4 amended

249A.11 Payment for patient care segregated. Each hospital-school shall, upon receipt of any payment made under this chapter for the care of any patient, segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

249A.12 Assistance to mentally retarded residents of county care facilities or certain other licensed facilities.

1. Assistance may be furnished under this chapter, in accordance with subsection 2 of this section, to a mentally retarded person who is otherwise eligible for such assistance, to pay all or a portion of the cost of maintaining that person as a resident of:

a. A county care facility, or portion thereof, which is licensed in accordance with the provisions of chapter 135C and is certified as an intermediate care facility for the mentally retarded in accordance with federal and state standards governing the medical assistance program.

b. Another intermediate care facility for the mentally retarded that is so licensed and certified, when the mentally retarded person eligible for assistance is residing in the facility with approval of the county board of supervisors of the county in which that person resided prior to entering the facility.

2. Assistance may be furnished under this section only in cases where the county board of supervisors or the operator of the alternative intermediate care facility for the mentally retarded has entered into an agreement with the department to provide services that are in accordance with the department's appropriate district plan for delivery of services to mentally retarded and developmentally disabled citizens, and to upgrade and maintain the facility, or portion thereof, in accordance with the provisions of the technical plan of correction that has been approved for the facility. Assistance shall be furnished only when it is determined that adequate funding is available.

Each county board entering into an agreement with the department under this subsection shall agree to reimburse the department on a monthly basis, for that portion of the cost of assistance furnished under this section which is not paid from federal funds. The department shall place all reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds for any purpose for which the funds so appropriated by the general assembly may lawfully be used. Any county-reimbursed funds remaining unexpended shall revert to the general fund of the state in the same manner as the original appropriation.

(83 Acts, ch 123, § 96, 209) HF 628

Subsection 2, unnumbered paragraph 2 amended

249A.13 Pilot program on surgery for medicaid clients. The department of human services shall implement a pilot program in community services districts ten and two requiring mandatory second opinions on elective surgery for medicaid clients. The department shall reimburse board certified surgical specialists to give their opinion on elective surgery prescribed by the client's own physician. If there is a difference in the opinion of the two physicians, the client shall make the

final determination. In cases where the client is geographically distant from the specialist, the department shall pay transportation and child care expenses incurred in obtaining the second opinion. The department shall maintain statistical information on this program in community service districts ten and two and on similar groups in community service districts eight and eleven in order to evaluate the impact of this program on the costs of the medicaid program.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 249B

COMMISSION ON THE AGING

249B.17 Interagency co-ordinating committee created. An interagency co-ordinating committee is created to advise and assist the commission in the establishment of the elderly care program and in the implementation of sections 249B.15 to 249B.21 and Acts of the Sixty-eighth General Assembly, chapter 16, section 11. The interagency co-ordinating committee shall consist of a representative of the commission selected by the executive director of the commission, a representative of the department of human services selected by the commissioner of human services, a representative of the state department of health selected by the commissioner of public health, and two consumer representatives, appointed by the governor and not subject to senate confirmation. The consumer representatives, while engaged in their official duties, shall be reimbursed for their actual and necessary expenses out of funds appropriated to the commission.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

249B.31 Purpose. The purpose of sections 249B.31 through 249B.35 is to establish the long-term care ombudsman program operated by the Iowa commission on the aging in accordance with the requirements of the Older Americans Act of 1965, 42 U.S.C. secs. 3026(a)(6)(d), 3027(a)(12) and 3030d(a)(10) amended to July 1, 1983, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission on the aging shall adopt and enforce rules for the implementation of sections 249B.31 through 249B.35.

(83 Acts, ch 73, § 1) SF 431

NEW section

249B.32 Definitions. As used in sections 249B.33 through 249B.35:

1. "*Administrative action*" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in sections 249B.33 through 249B.35.
2. "*Long-term care facility*" means a long-term care unit of a hospital, a foster group home, a group living arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.
3. "*Ombudsman program*" means the state long-term care ombudsman program operated by the commission on the aging and administered by the long-term care ombudsman.
4. "*Federal Act*" means the Older Americans Act of 1965, 42 U.S.C. secs. 3001 et seq., as amended to July 1, 1983.

(83 Acts, ch 73, § 2) SF 431

NEW section

249B.33 Long-term care ombudsman — duties. The Iowa commission on the aging, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care ombudsman within the commission. The long-term care ombudsman shall perform the following duties:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

2. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care facilities in Iowa.

3. Provide information to other agencies and to the public about the problems of older persons in long-term care facilities.

4. Train volunteers and assist in the development of citizens' organizations to participate in the long-term care ombudsman program.

5. Carry out other activities consistent with the ombudsman provisions of the federal Act.

6. Report annually to the general assembly on the activities of the ombudsman's office.

The ombudsman shall have access to long-term care facilities, private access to residents, access to residents' personal and medical records, and access to other records maintained by the facilities or governmental agencies pertaining only to the person on whose behalf a complaint is being investigated.

(83 Acts, ch 73, § 3) SF 431
NEW section

249B.34 Authority and responsibilities of the commission. To ensure compliance with the federal Act the commission on the aging shall establish the following:

1. Procedures to protect the confidentiality of a resident's records and files.

2. A statewide uniform reporting system.

3. Procedures to enable the long-term care ombudsman to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

(83 Acts, ch 73, § 4) SF 431
NEW section

249B.35 Care review committee.

1. The care review committee program is under the statewide long-term care ombudsman program within the commission.

2. The responsibilities of the care review committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed health care facility as defined in chapter 135C.1, subsection 4 and the services each facility may render. The commission shall coordinate the development of any rules with the mental health and mental retardation commission to the extent the rules would apply to a facility primarily serving persons who are mentally ill, mentally retarded, or developmentally disabled. The commission shall coordinate the development of any rules with other state agencies.

(83 Acts, ch 73, § 5) SF 431
NEW section

CHAPTER 249C

WORK AND TRAINING PROGRAM

249C.1 Definitions. For the purposes of this chapter:

1. "Commissioner" means the commissioner of human services, or his designee.
2. "Department" means the department of human services.
3. "Training" includes appropriate education.
4. "Public assistance" means aid or assistance under chapter 239 or 249.
5. "Eligible person" includes each person who is receiving public assistance or

who lives in the same household as a recipient of public assistance and whose needs are taken into account in determining the assistance payment. However, the following are not "eligible persons" unless they voluntarily request to be included:

- a. A person who is under the age of sixteen years.
- b. A person who has attained the age of sixty-five years.
- c. A person whose health or disability does not permit any kind of work or training.
- d. A person who is already engaged in an adequate full-time program of work, training, or school.
- e. A person who is required to be present and is actually present in the home on a substantially continuous basis because of the illness or incapacity of another member of the household.
- f. A person who is required to be present and is actually present in the home on a substantially continuous basis for the purpose of child care.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 1 and 2 amended

249C.3 Work and training program. The commissioner shall establish a work and training program for persons and members of families receiving public assistance. The Iowa department of job service, all county boards and departments of social welfare, and all state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and co-operate in the program. They shall make agreements and arrangements for maximum co-operation and use of all available resources in the program. By mutual agreement the commissioner may delegate any of the commissioner's powers and duties under this chapter to the Iowa department of job service.

(83 Acts, ch 101, § 57) SF 136

Amended

CHAPTER 250

COMMISSION OF VETERAN AFFAIRS

250.5 Compensation. A member of the commission shall receive twenty-five dollars for each month during which the member attends one or more commission meetings and shall be reimbursed for mileage the same as a member of the board of supervisors. Compensation and mileage shall be paid out of the appropriation authorized in section 250.14.

(83 Acts, ch 123, § 97, 209) HF 628

Amended

250.10 Disbursements — inspection of records. All claims certified by the commission shall be reviewed by the board of supervisors and the county auditor shall issue warrants in payment of the claims. All applications, investigation reports and case records are privileged communications and shall be held confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and the administration of this chapter. However, the county commission of veteran affairs shall prepare and file in the office of the county auditor on or before the thirtieth day of each January, April, July and October a report showing the names and addresses of all recipients receiving assistance under this chapter, together with the amount paid to each during the preceding quarter. Each report so filed shall be securely fixed in a record book to be used only for such reports made under this chapter.

The record book shall be and the same is hereby declared to be a public record, open to public inspection at all times during the regular office hours of the county auditor. Each person who desires to examine said records, other than in pursuance

of official duties as hereinbefore provided, shall sign a written request to examine the same, which shall contain an agreement on the part of the signer that he or she will not utilize any information gained therefrom for commercial or political purposes.

It shall be unlawful for any person, body, association, firm, corporation or any other agency to solicit, disclose, receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this provision shall constitute a serious misdemeanor.

(83 Acts, ch 123, § 98, 209) HF 628

Unnumbered paragraph 1 amended

250.14 Appropriation. The board of supervisors of each county may appropriate moneys for the benefit of, and to pay the funeral expenses of honorably discharged, indigent men and women of the United States who served in the military or naval forces of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive, and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county.

The appropriation shall be expended by the joint action and control of the board of supervisors and the county commission of veteran affairs.

(83 Acts, ch 123, § 99, 209) HF 628

NEW section

250.17 Maintenance of graves. The board of supervisors of the several counties in this state shall each year appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service man or woman of the United States is buried, a sum sufficient to pay for the care and maintenance of the lots on which they are buried, in any and all cases in which provision for such care is not otherwise made.

(83 Acts, ch 123, § 100, 209) HF 628

Amended

CHAPTER 251

EMERGENCY RELIEF ADMINISTRATION

251.1 Definitions. As used in this chapter: "Division" or "state division" means the division of child and family services of the department of human services; "director" or "state director" means the director of the division of child and family services of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

251.4 Grants from state funds to counties. The state division may require as a condition of making available state assistance to counties for emergency relief purposes, that the county boards of supervisors shall establish budgets as needed in respect to the relief situation in the counties.

(83 Acts, ch 123, § 101, 209) HF 628

Amended

CHAPTER 252

SUPPORT OF THE POOR

252.6 Enforcement of liability. Upon the failure of such relatives so to relieve or maintain a poor person who has made application for relief, the county board of supervisors, county social welfare board, or state division of child and family services of the department of human services may apply to the district court of the county where such poor person resides or may be, for an order to compel the same.

(83 Acts, ch 96, § 157, 159) SF 464
Amended

252.18 Foreign paupers.

1. A person who is a county charge or is likely to become so, coming from another state and not having acquired a settlement in a county of this state or any such person having acquired a settlement in a county of this state who moves to another county, may be removed from this state or from the county into which the person has moved at the expense of the county where the person is found, upon the petition of the county to the district court in that county.

2. The court or judge shall fix the time and place of hearing on said petition and prescribe the time and manner of service of the notice of such hearing.

3. If upon the hearing on said petition such person shall be ordered to remove from the state or county and fails to do so, he shall be deemed and declared in contempt of court and may be punished accordingly; or the judge may order the sheriff of the county seeking the removal to return such person to the state or county of his legal settlement.

(83 Acts, ch 186, § 10062, 10201) SF 495
Subsection 1 amended

252.26 General relief director. The board of supervisors in each county shall appoint or designate a general relief director for the county, who shall have the powers and duties conferred by this chapter. In counties of one hundred thousand or less population, the county board may designate as general relief director an employee of the state department of human services who is assigned to work in that county and is directed by the commissioner of human services, pursuant to an agreement with the county board, to exercise the functions and duties of general relief director in that county. The director shall receive as compensation an amount to be determined by the county board.

(83 Acts, ch 123, § 102, 209) HF 628

Amended

(83 Acts, ch 96, § 157, 159) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Amended

252.35 Payment of claims. All claims and bills for the care and support of the poor shall be certified to be correct by the general relief director and presented to the board of supervisors, and, if the board is satisfied that the claims and bills are reasonable and proper, they shall be paid.

(83 Acts, ch 123, § 103, 209) HF 628

Amended

252.42 Co-operation on work-relief projects. The county board of supervisors may join and co-operate with the United States government, or cities within their boundaries, or both the United States government and cities within their boundaries, in sponsoring work projects, provided that the money used does not exceed the cost per month of supplying relief to the certified persons working on projects who would be receiving direct relief if they were not employed on the projects.

(83 Acts, ch 123, § 104, 209) HF 628

Amended

252.43 State support for Indians. The expense of support for the poor for Indians residing in the settlement located in Tama county shall be paid from funds appropriated for that purpose to the department of human services. The tribal council of the settlement shall administer such support for Indians residing on the settlement. The tribal council shall submit a report annually to the department delineating program expenditures.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 252A

UNIFORM SUPPORT OF DEPENDENTS LAW

252A.12 Exchange lists of courts. The state division of child and family services of the department of human services is hereby designated as the state information agency under this chapter, and it shall be its duty to compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar Act and to maintain a register of such lists received from other states.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

252A.13 Recipients of public assistance — assignment of support payments. A person entitled to periodic support payments pursuant to an order or judgment entered in a uniform support action under this chapter, who is also a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of human services. The department shall immediately notify the clerk of court by mail when a person entitled to support payments has been determined to be eligible for public assistance. Upon notification by the department that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. The clerk of court shall forward support payments received pursuant to section 252A.6, to which the department is entitled, to the department, unless the court has ordered the payments made directly to the department under subsection 12 of that section. The department may secure support payments in default through proceedings prescribed in this chapter. The clerk shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when the parties are receiving public assistance.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 252B

CHILD SUPPORT RECOVERY

252B.1 Definitions. As used in sections 252B.2 to 252B.10, unless the context otherwise requires:

1. "*Child*" includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain himself and is likely to become a public charge. "*Child*" includes "*dependent children*" as defined in section 239.1, subsection 3.
2. "*Resident parent*" means the parent with whom the child is residing at the

time the support collection or paternity determination services provided in sections 252B.5 and 252B.6 are requested or commenced.

3. "*Absent parent*" means the parent who either cannot be located or who is located and is not residing with the child at the time the support collection or paternity determination services provided in sections 252B.5 and 252B.6 are requested or commenced.

4. "*Department*" means the department of human services.

5. "*Commissioner*" means the commissioner of the department of human services.

6. "*Unit*" means the child support recovery unit created in section 252B.2.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 4 and 5 amended

252B.2 Unit established. There is created within the department of human services a child support recovery unit for the purpose of providing the services required in sections 252B.3 to 252B.6.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

252B.3 Duty of department to enforce child support. Upon receipt by the department of an application for public assistance on behalf of a child and determination by the department that the child has been abandoned by its parents or that the child and one parent have been abandoned by the other parent or that the parent or other person responsible for the care, support or maintenance of the child has failed or neglected to give proper care or support to the child, the department shall take appropriate action under the provisions of this chapter or under other appropriate statutes of this state including but not limited to chapters 239, 252A, 598, and 675, to ensure that the parent or other person responsible for the support of the child fulfills the support obligation.

The department of human services may negotiate a partial payment of a support obligation with a parent or other person responsible for the support of the child, provided that the negotiation and partial payment are consistent with applicable federal law and regulation.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 2 amended

252B.4 Nonassistance cases. The child support and paternity determination services established by the department pursuant to this chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239, 252A, 598 and 675 shall be made available by the unit to an individual not otherwise eligible as a public assistance recipient upon application by the individual for the services. The application shall be filed with the department. The commissioner may require an application fee not to exceed twenty dollars. The commissioner may require an additional fee to cover the costs incurred by the department in providing the support collection and paternity determination services. The commissioner shall, by rule, establish and make available to all applicants for support enforcement and paternity determination services a fee schedule. The fee for support collection and paternity determination services charged to an applicant shall be agreed upon in writing by the applicant, and shall be based upon the applicant's ability to pay for the services. The application fee and the additional fee for services may be deducted from the amount of the support money recovered by the department. Seventy percent of the fees collected pursuant to this section may be retained by the department for use by the unit and thirty percent shall be remitted to the treasurer of state who shall deposit it in the general fund of the state. The commissioner or a designee and the treasurer of state shall keep an accurate record of funds so retained, remitted, and deposited.

(83 Acts, ch 153, § 16) SF 541

Amended

252B.5 Services of unit. The child support recovery unit shall provide the following services:

1. Assistance in the location of an absent parent or any other person who has an obligation to support the child of the resident parent.
2. Aid in establishing paternity and securing a court order for support pursuant to chapter 675.
3. Aid in enforcing through court proceedings an existing court order for support issued pursuant to chapters 252A, 598, and 675.
4. Assistance to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of human services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child. The department of human services shall promulgate rules pursuant to chapter 17A necessary to assist the department of revenue in the implementation of the child support setoff as established under section 421.17, subsection 21.
5. Determine periodically whether an individual receiving unemployment compensation benefits under chapter 96 owes a support obligation which is being enforced by the unit, and enforce the support obligation through court proceedings in the absence of a voluntary agreement by the individual to have specified amounts withheld from the individual's unemployment compensation benefits.

(83 Acts, ch 96, § 157, 159) SF 464
 Subsection 4 amended

252B.6 Additional services in assistance cases. In addition to the services enumerated in section 252B.5, the unit may provide the following services in the case of a dependent child for whom public assistance is being provided:

1. Represent the child in obtaining a support order necessary to meet the child's needs or in enforcing a similar order previously entered.
2. Appear as a friend of the court in dissolution of marriage and separate maintenance proceedings, or proceedings supplemental thereto, when either or both of the parties to the proceedings are receiving public assistance, for the purpose of advising the court of the financial interest of the state in the proceeding.
3. Appear on behalf of the resident parent of a child for whom public assistance is being provided, upon request by the parent, for the purpose of assisting the parent in securing a modification of a dissolution or separate maintenance decree which provided no support or inadequate support for the child. However, the unit may appear on behalf of the resident parent pursuant to this subsection only when the court determines that the resident parent is financially unable to employ legal counsel and is unable to engage free legal counsel. If the resident parent does not request the appearance of a unit representative, or does not qualify for representation pursuant to this subsection, the unit may appear as a friend of the court pursuant to subsection 2, however, the unit shall not otherwise participate in the proceeding.
4. If public assistance has been applied for or granted on behalf of a child of parents who are legally separated or whose marriage has been legally dissolved, the unit may apply to the district court for a court order directing either or both parents to show cause for the following:
 - a. Why an order of support for the child should not be entered, or
 - b. Why the amount of support previously ordered should not be increased, or
 - c. Why the parent should not be held in contempt for failure to comply with a support order previously entered.
5. Initiate necessary civil proceedings to recover from the parent of a child, money expended by the state in providing public assistance or services to the child, including support collection services.

(83 Acts, ch 153, § 17) SF 541
 Subsection 5 amended

252B.7 Legal services.

1. The attorney general may perform the legal services for the child support recovery program and may enforce all laws for the recovery of child support from responsible relatives. The attorney general may file and prosecute:

- a. Contempt of court proceedings to enforce any order of court pertaining to child support.
- b. Cases under chapter 252A, the Uniform Support of Dependents Law.
- c. An information charging a violation of section 726.3, 726.5 or 726.6.
- d. Any other lawful action which will secure collection of support for minor children.

2. For the purposes of subsection 1, the attorney general has the same power to commence, file and prosecute any action or information in the proper jurisdiction, which the county attorney could file or prosecute in that jurisdiction. This section does not relieve a county attorney from the county attorney's duties, or the attorney general from the supervisory power of the attorney general, in the recovery of child support.

3. The unit may contract with a county attorney, the attorney general, a clerk of the district court, or another person or agency to collect support obligations and to administer the child support program established pursuant to this chapter. Notwithstanding section 13.7, the unit may contract with private attorneys for the prosecution of civil collection and recovery cases and may pay reasonable compensation and expenses to private attorneys for the prosecution services provided.

(83 Acts, ch 153, § 18) SF 541

Amended

252B.11 Recovery of costs of collection services. The unit may initiate necessary civil proceedings to recover the unit's costs of support collection services provided to an individual, whether or not the individual is a public assistance recipient, from an individual who owes and is able to pay a support obligation but willfully fails to pay the obligation. The unit may seek a lump sum recovery of the unit's costs or may seek to recover the unit's costs through periodic payments which are in addition to periodic support payments. If the unit's costs are recovered from an individual owing a support obligation, the costs shall not be deducted from the amount of support money received from the individual. Seventy percent of the costs collected pursuant to this section may be retained by the department for use by the unit and thirty percent shall be remitted to the treasurer of state who shall deposit it in the general fund of the state. The commissioner or a designee and the treasurer of state shall keep an accurate record of funds so retained, remitted, and deposited.

(83 Acts, ch 153, § 19) SF 541

NEW section

CHAPTER 255

MEDICAL AND SURGICAL TREATMENT OF INDIGENT PERSONS

255.26 Expenses — how paid — action to reimburse county. Warrants issued under section 255.25 shall be promptly drawn on the treasurer of state and forwarded by the state comptroller to the treasurer of the state university, and the same shall be by him placed to the credit of the funds which are set aside for the support of said hospital. The superintendent of the said university hospital shall certify to the auditor of state on the first day of January, April, July and October of each year, the amount as herein provided not previously certified by him due the state from the several counties having patients chargeable thereto, and the auditor of state shall thereupon charge the same to the county so owing. A duplicate certificate shall also be mailed to the auditor of each county having patients chargeable thereto.

The county auditor, upon receipt of the certificate, shall enter it to the credit of the state in the ledger of state accounts, and at once issue a notice to the county treasurer authorizing the county treasurer to transfer the amount to the general state revenue, which notice shall be filed by the treasurer as authority for making the transfer. The county treasurer shall include the amount transferred in the next remittance of state taxes to the treasurer of state, to accrue to the credit of the university hospital fund.

The state auditor shall certify the total cost of commitment, transportation and caring for each indigent patient under the terms of this statute to the county auditor of such patient's legal residence, and such certificate shall be preserved by the county auditor and shall be a debt due from the patient or the persons legally responsible for his or her care, maintenance or support; and whenever in the judgment of the board of supervisors the same or any part thereof shall be collectible, the said board may in its own name collect the same and is hereby authorized to institute suits for such purpose; and after deducting the county's share of such cost shall cause the balance to be paid into the state treasury to reimburse the university hospital fund.

Should any county fail to pay these bills within sixty days from the date of certificate from superintendent, the state comptroller shall charge the delinquent county the penalty of one percent per month on and after sixty days from date of certificate until paid. Such penalties shall be credited to the general fund of the state.

(83 Acts, ch 123, § 105, 209) HF 628

Unnumbered paragraph 2 amended

255.28 Transfer of patients from state institutions. The commissioner of the department of human services, in respect to institutions under the commissioner's control, the director of any of the divisions of the department, in respect to the institutions under the director's control, the director of the Iowa department of corrections, in respect to the institutions under the department's control, and the state board of regents in respect to the Iowa braille and sight-saving school and the Iowa school for the deaf, may send any inmate, student, or patient of any institutions, or any person committed or applying for admission thereto, to the hospital of the medical college of the state university for treatment and care as provided in this chapter, without securing the order of court required in other cases. The department of human services, the Iowa department of corrections and the state board of regents, shall respectively pay the traveling expenses of a patient thus committed, and when necessary the traveling expenses of an attendant for the patient, out of funds appropriated for the use of the institution from which the patient is sent.

(83 Acts, ch 96, § 109, 159) SF 464

Effective October 1, 1983

Amended

255.29 Medical care for parolees. The director of the Iowa department of corrections may send former inmates of the institutions provided for in section 217A.2, while on parole, to the hospital of the college of medicine of the state University of Iowa for treatment and care as provided in this chapter, without securing the order of the court required in other cases. The director may pay the traveling expenses of any patient thus committed, and when necessary the traveling expenses of an attendant of the patient out of funds appropriated for the use of the division.

(83 Acts, ch 96, § 110, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 257

DEPARTMENT OF PUBLIC INSTRUCTION

257.17 Powers of superintendent. The superintendent shall have the following powers:

1. Exercise general supervision over the state system of public education, including the public elementary and secondary schools, the junior colleges, and shall have educational supervision over the elementary and secondary schools under the control of a director of a division of the department of human services, and nonpublic schools to the extent that is necessary to ascertain compliance with the provisions of the Iowa school laws.

2. Advise and counsel with the state board on all matters pertaining to education, recommend to the state board such matters as in his judgment are necessary to be acted upon, and when approved, to execute or provide for the execution of the same when so directed by the state board.

3. Recommend to the state board for adoption such policies pertaining to the state system of public education as he may consider necessary for its more efficient operation.

4. Carry out all orders of the state board not inconsistent with state law.

5. Organize, staff and administer the state department so as to render the greatest service to public education in the state.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

257.18 Responsibilities of superintendent. It shall be the responsibility of the state superintendent of public instruction to exercise all powers and perform all duties hereinafter listed; provided, in those categories where policies are to be initiated by the superintendent and approved by the state board, such policies are to be executed by the superintendent only after having been approved by the state board.

1. Attend all meetings of the state board, except executive sessions of the state board, as may be requested by the state board, and call such special meetings of the board as he may be authorized to call by the president or by written request of five members of the board.

2. Keep such records of the proceedings of the board, including complete minutes, as are necessary to locate and identify the actions of the state board.

3. Act as custodian of a seal for his office with which, together with his signature, he shall authenticate all true copies of decisions, acts, or documents.

4. Act as the executive officer of the state board in all matters pertaining to vocational education and vocational rehabilitation.

5. Recommend to the state board the personnel of such committees as are required by law, and to appoint such other committees as may be deemed desirable by him or the state board for carrying out the provisions of the Iowa school laws.

6. Apportion to the respective school districts of the state all moneys provided by law according to the provisions of the various state and federal aid laws.

7. Provide the same educational supervision for the schools maintained by the commissioner of human services as is provided for the public schools of the state and make recommendations to the commissioner of human services for the improvement of the educational program in those institutions.

8. Recommend ways and means of co-operating with the federal government in carrying out any or all phases of the educational program relating to the state system of public education in which, in the discretion of the board, co-operation is desirable. Recommend policies for administering funds which may be appropriated by Congress and apportioned to the state for any or all educational purposes relating to the public school system, and execute such plans as adopted by the state board.

9. Recommend to the state board policies and ways and means of co-operating with other agencies, federal, state, county and municipal, for carrying out those phases of the program in which co-operation is required by law, or in the discretion of the state board, it is deemed desirable and co-operate with such agencies in planning and bringing about improvements in the educational program.

10. Advise and counsel concerning the interpretation and meaning of the school laws and the rules and regulations adopted pursuant thereto; and, when practicable, amicably adjust and settle such controversies arising thereunder as may be submitted to him, directly or by appeal, by all persons directly concerned, to hear and decide appeals as provided by law.

11. Prepare for the approval of the state board, such forms and procedures as are deemed necessary to be used by area education agency boards, district boards, school officials, principals, teachers, and other employees, and to insure uniformity, accuracy, and efficiency in keeping records in both pupil and cost accounting, the execution of contracts, and the submission of reports; furnish, when deemed advisable by him and approved by the state board, those forms which can more economically and efficiently be provided in that manner; and notify the area education agency board, or district board, or school authorities, in any case when any report has not been filed in the manner or on the dates prescribed by law or by regulation of the state board that the school be not approved until the report has been properly filed.

12. Ascertain by inspection, supervision, or otherwise, the condition, needs, and progress of the schools under the supervision of his department and make recommendations to the proper authorities for the correction of deficiencies and the educational and physical improvement of such schools, and recommend to the state board the need for a state audit of the accounts of any school district, area education agency, school official, or any school employee handling school funds when it is apparent that such audit should be made. If deemed advisable the state board may call upon the state auditor to make such an audit and he shall proceed to do so as soon as practicable.

13. Preserve all reports, documents, and correspondence that may be of a permanent value, which shall be open for inspection under reasonable conditions by any citizen of the state.

14. Keep a record of the business transacted by him.

15. Endeavor to promote among the people of the state an interest in education.

16. Classify and define the various schools under the supervision of his department, formulate suitable courses of study therefor, and publish and distribute such classifications and courses of study and promote their use.

17. Report to the state comptroller on the first day of January of each year the number of persons of school age in each county and in the area included in each area education agency.

18. Report biennially to the governor, at the time provided by law, the condition of the schools under his supervision, including the number and kinds of school districts, the number of schools of each kind, the number and value of schoolhouses, the enrollment and attendance in each county for the previous year, any measures proposed or plans matured for the improvement of the public schools, such financial and statistical information as may be of public importance, and such general information relating to educational affairs and conditions within the state or elsewhere.

19. Direct area education agency administrators to arrange for professional teachers' meetings, demonstration teaching or other field work for the improvement of instruction as best fits the needs of the public schools in each merged area and formulate rules for the administration of this subsection.

20. Develop, print, and disseminate such information and facts as necessary to promote among the people of Iowa an interest and knowledge in education.

21. Cause to be printed in book form, during the months of June and July in the

year 1955 and every four years thereafter, if deemed necessary, all school laws then in force with such forms, rulings, and decisions, and such notes and suggestions as may aid school officers in the proper discharge of their duties. A sufficient number shall be furnished to school officers, directors, superintendents, area administrators and others in such numbers as may be reasonably requested.

22. Cause to be printed in pamphlet form after each session of the general assembly any amendments or changes in the school laws with necessary notes and suggestions to be distributed as prescribed in subsection 21 of this section.

23. Prepare and submit to each regular session of the general assembly a report containing the recommendations of the state board as to revisions, amendments, and new provisions of school laws.

(83 Acts, ch 101, § 58) SF 136

Subsection 7 amended

(83 Acts, ch 96, § 160) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 7 amended

257.28 Nonresident pupils. The boards of directors of two or more school districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the district of their residence. The boards may also provide by agreement that the districts will combine their enrollments for one or more grades. Courses and grades made available to students in this manner shall be considered as complying with any standards or laws requiring the offering of such courses and grades. The boards of directors of districts entering into such agreements may provide for sharing the costs and expenses of such courses.

(83 Acts, ch 31, § 1) HF 344

Amended

257.30 Nonpublic school advisory committee. A nonpublic school advisory committee is established which shall consist of five members, to be appointed by the governor, each of them to be a citizen of the United States and a resident of the state of Iowa. The term of the members shall be four years. The duties of the committee shall be to advise the state board of public instruction on matters affecting nonpublic schools, including but not limited to the establishment of standards for teacher certification and the establishment of standards for, and approval of, all nonpublic schools. Notice of meetings of the state board of public instruction shall be sent by the state board to members of the committee.

Committee members shall receive forty dollars per diem and shall be reimbursed for actual and necessary expenses incurred in performance of their duties. The per diem and expense money shall be paid from the appropriations to the department of public instruction.

(83 Acts, ch 197, § 12) SF 533

Amended, and NEW unnumbered paragraph 2 added

257.41 Software clearinghouse.

1. The state board of public instruction under its authority granted in section 257.10, subsection 14, shall establish a computer software clearinghouse for instructional purposes to perform the following services for school districts, area education agencies, and merged area schools in this state:

- a. Acquire computer programs based upon curricular needs of educational agencies.
- b. Evaluate computer programs as to their appropriateness to educational programs used in this state.
- c. Catalog and organize computer programs.
- d. Reproduce and distribute computer programs.
- e. Provide for the development of appropriate educational materials to accompany the computer programs.

2. The state board shall establish a committee to coordinate the activities of the clearinghouse. The members of the committee shall meet as often as necessary to accomplish their duties and shall receive reimbursement for travel and necessary expenses from funds appropriated in this section.

The committee may negotiate agreements with public and private agencies in order to perform the services listed in subsection 1 and may charge users of the services listed in subsection 1 reproduction costs and other costs associated with the services.

3. There is appropriated from the general fund of the state to the department of public instruction, for the fiscal year beginning July 1, 1984 and each fiscal year thereafter, the sum of two hundred fifty thousand dollars, or so much thereof as is necessary, to fund the computer software clearinghouse.

(83 Acts, ch 184, § 1, 15) HF 532

Effective June 15, 1983

NEW section

257.42 Programs for improvement of science and mathematics teaching. The department shall provide for the establishment of programs, approved by the board of educational examiners, for teachers to improve skills in teaching in the science and mathematics areas. Each program shall provide assistance to teachers in subject content and teaching methodology for science or mathematics.

The programs may be established through an area education agency or public or private institution of higher education in this state.

There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1983, the sum of forty thousand dollars or as much thereof as is necessary, and for the fiscal year beginning July 1, 1984, and each succeeding fiscal year, the sum of one hundred forty thousand dollars, or as much thereof as is necessary, to be allocated for the establishment of programs under this section.

(83 Acts, ch 184, § 10, 15) HF 532

Effective June 15, 1983

NEW section

CHAPTER 258A

CONTINUING PROFESSIONAL AND OCCUPATIONAL EDUCATION — LICENSEE DISCIPLINARY PROCEDURE

258A.1 Definitions.

1. "Licensing board" or "board" includes the following boards:
 - a. The state board of engineering examiners, created pursuant to chapter 114.
 - b. The board of examiners of shorthand reporters created pursuant to division I, article 3, of chapter 602.
 - c. The board of accountancy, created pursuant to chapter 116.
 - d. The Iowa real estate commission, created pursuant to chapter 117.
 - e. The board of architectural examiners, created pursuant to chapter 118.
 - f. The Iowa board of landscape architectural examiners, created pursuant to chapter 118A.
 - g. The board of watchmaking examiners, created pursuant to chapter 120.
 - h. The board of barber examiners, created pursuant to chapter 147.
 - i. The board of chiropractic examiners, created pursuant to chapter 147.
 - j. The board of cosmetology examiners, created pursuant to chapter 147.
 - k. The board of dental examiners, created pursuant to chapter 147.
 - l. The board of mortuary science examiners, created pursuant to chapter 147.
 - m. The board of medical examiners, created pursuant to chapter 147.
 - n. The board of nursing, created pursuant to chapter 147.

- o. The board of examiners for nursing home administrators, created pursuant to chapter 135E.
- p. The board of optometry examiners, created pursuant to chapter 147.
- q. The board of pharmacy examiners, created pursuant to chapter 147.
- r. The board of physical and occupational therapy examiners, created pursuant to chapter 147.
- s. The board of podiatry examiners, created pursuant to chapter 147.
- t. The board of psychology examiners, created pursuant to chapter 147.
- u. The board of speech pathology and audiology examiners created pursuant to chapter 147.
- v. The board for the licensing and regulation of hearing aid dealers, created pursuant to chapter 154A.
- w. The board of veterinary medicine, created pursuant to chapter 169.
- x. The board of certification, created pursuant to chapter 455B.
- y. Any professional or occupational licensing board created after January 1, 1978.
- z. The commissioner of insurance in licensing insurance agents pursuant to chapter 522, except those agents authorized to sell only credit life and credit accident and health insurance.

2. "*Continuing education*" means that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. This education may be obtained through formal or informal education practices, self-study, research, and participation in professional, technical, and occupational societies, and by other similar means as authorized by the board.

3. The term "*licensing*" and its derivations include the terms "*registration*" and "*certification*" and their derivations.

4. "*Inactive licensee re-entry*" means that process a former or inactive professional or occupational licensee pursues to again be capable of actively and competently practicing as a professional or occupational licensee.

5. "*Licensee discipline*" means any sanction a licensing board may impose upon its licensees for conduct which threatens or denies citizens of this state a high standard of professional or occupational care.

6. "*Disciplinary proceeding*" means any proceeding under the authority of a licensing board pursuant to which licensee discipline may be imposed.

7. "*Peer review*" means evaluation of professional services rendered by a professional practitioner.

8. "*Peer review committee*" means one or more persons acting in a peer review capacity pursuant to this chapter.

9. "*Malpractice*" means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a licensee in the course of practice of his or her occupation or profession, pursuant to this chapter.

(83 Acts, ch 186, § 10063, 10201) SF 495

Subsection 1, paragraph b amended

258A.3 Authority of licensing boards.

1. Notwithstanding any other provision of this chapter, each licensing board shall have the powers to:

a. Administer and enforce the laws and administrative rules relating to the practice of the profession whose members are examined for licensure by the board;

b. Adopt and enforce administrative rules which provide for the partial re-examination of the professional licensing examinations given by each licensing board;

c. Review or investigate, or both, upon written complaint or upon its own motion pursuant to other evidence received by the board, alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline;

d. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted;

e. Initiate and prosecute disciplinary proceedings;

f. Impose licensee discipline;

g. Petition the district court for enforcement of its authority with respect to licensees or with respect to other persons violating the laws which the board is charged with administering;

h. Register or establish and register peer review committees;

i. Refer to a registered peer review committee for investigation, review, and report to the board, any complaint or other evidence of an act or omission which the board reasonably believes to constitute cause for licensee discipline. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction;

j. Determine and administer the renewal of licenses for periods not exceeding three years.

2. Each licensing board may impose one or more of the following as licensee discipline:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon the grounds specified in sections 114.21, 116.21, 117.29, 118.13, 118A.15, 120.10, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.219 and 602.3203 and chapters 135E, 151, 507B and 522 or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

b. Revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in one or more specified procedures, methods, or acts incident to the practice of the profession, if pursuant to hearing or stipulated or agreed settlement the board finds that because of a lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care;

c. Impose a period of probation under specified conditions, whether or not in conjunction with other sanctions;

d. Require additional professional education or training, or re-examination, or any combination, as a condition precedent to the reinstatement of a license or of any privilege incident thereto, or as a condition precedent to the termination of any suspension;

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

f. Issue a citation and warning respecting licensee behavior which is subject to the imposition of other sanctions by the board.

3. The powers conferred by this section upon a licensing board shall be in addition to powers specified elsewhere in the Code. The powers of any other person specified elsewhere in the Code shall not limit the powers of a licensing board conferred by this section, nor shall the powers of such other person be deemed limited by the provisions of this section.

4. Nothing contained in this section shall be construed to prohibit informal stipulation and settlement by a board and a licensee of any matter involving licensee discipline. However, licensee discipline shall not be agreed to or imposed except pursuant to a written decision which specifies the sanction and which is entered by the board and filed.

All health-care boards shall file written decisions which specify the sanction

entered by the board with the department of health which shall be available to the public upon request. All nonhealth-care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

(83 Acts, ch 186, § 10064, 10201) SF 495
 Subsection 2, paragraph a amended

258A.4 Duties of board.

1. Each licensing board shall have the following duties in addition to other duties specified by this chapter or elsewhere in the Code:

a. Establish procedures by which complaints which relate to licensure or to licensee discipline shall be received and reviewed by the board;

b. Establish procedures by which disputes between licensees and clients which result in judgments or settlements in or of malpractice claims or actions shall be investigated by the board;

c. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established;

d. Establish procedures for registration with the board of peer review committees if a peer review committee is established;

e. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established;

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under sections 114.21, 116.21, 117.29, 118.13, 118A.15, 120.10, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.187 and 602.3203 and chapters 135E, 151, 507B and 522, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 258A.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 258A.9, subsection 2;

g. Establish the procedures by which licensees shall report those acts or omissions specified by the board pursuant to paragraph "f" of this subsection;

h. Give written notice to another licensing board or to a hospital licensing agency if evidence received by the board either alleges or constitutes reasonable cause to believe the existence of an act or omission which is subject to discipline by that other board or agency;

i. Require each health care licensing board to file with the department of health a copy of each decision of the board imposing licensee discipline. Each nonhealth-care board shall have on file a copy of each decision of the board imposing licensee discipline which copy shall be properly dated and shall be in simple language and in the most concise form consistent with clearness and comprehensiveness of subject matter.

The commissioner of insurance shall by rule in consultation with the licensing boards enumerated in section 258A.1, require insurance carriers which insure professional and occupational licensees for acts or omissions which constitute negligence, careless acts or omissions in the practice of a profession or occupation to file reports with the commissioner of insurance. The reports shall include information pertaining to incidents by a licensee which may affect the licensee as defined by rule, involving an insured of the insurer. The commissioner of insurance shall forward reports pursuant to this section to the appropriate licensing board.

2. Each licensing board shall submit to the senate and house committees on state government in January of each year, commencing in January of 1979, a summary of the activities of that board since the preceding report respecting the following subjects:

a. The adoption or nonadoption of rules relating to the duties of the board as specified in this section;

b. The number of complaints, peer review committee disciplinary actions, and judgments and settlements reviewed or investigated by the board, the number of formal disciplinary proceedings commenced before the board or in the courts, the number and types of sanctions imposed, and the number and status of appeals to the court of board decisions, and the number and types of peer review committees registered by the board.

(83 Acts, ch 186, § 10065, 10201) SF 495
Subsection 1, paragraph f amended

CHAPTER 259

VOCATIONAL REHABILITATION

259.4 Duties of state board. The state board for vocational education is hereby empowered and directed to:

1. Co-operate with the secretary of health, education, and welfare in the administration of said Act of Congress.

2. Administer any legislation pursuant thereto enacted by this state, and direct the disbursement and administer the use of all funds provided by the federal government and this state for the vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment.

3. Appoint such assistants as may be necessary to administer the provisions of this chapter and said Act of Congress in this state and fix the compensation of such persons.

4. Study and make investigations relating to the vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment and to formulate plans for the vocational rehabilitation of such persons.

5. Make such surveys with the co-operation of the state commissioner of labor and the state industrial commissioner as will assist in the vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment.

6. Maintain a record of all such persons together with all measures taken for their rehabilitation.

7. Utilize in the rehabilitation of persons disabled in industry or otherwise such existing educational and other facilities as may be advisable and practicable, including public and private educational institutions, public or private establishments, plants, factories, and the services of individuals specially qualified for the instruction and vocational rehabilitation of handicapped persons.

8. Promote the establishment and assist in the development of training agencies for the vocational rehabilitation of persons disabled in industry or otherwise.

9. Supervise the training of such persons and confer with their relatives and others concerning their vocational rehabilitation.

10. Make every possible endeavor looking to the placement of vocationally rehabilitated persons in suitable remunerative occupations, including supervision for a reasonable time after return to civil employment.

11. Utilize the facilities of such agencies, both public and private, as may be practicable in securing employment for such persons; and any such public agency is hereby authorized and directed to co-operate with the state board for vocational education for the purpose stated.

12. Co-operate with any agency of the federal government or of the state, or of any county or other municipal authority within the state, or any other agency, public or private, in carrying out the purposes of this chapter.

13. Make such rules and regulations as may be necessary for the administration of this chapter and said Act of Congress within this state.

14. Do all things necessary to secure the rehabilitation of those entitled to the benefits of this chapter.

15. Report on call or biennially to the governor the conditions of vocational rehabilitation within the state, such report to designate the educational institutions, establishments, plants, factories, etc., in which training is being given, and to contain a detailed statement of the expenditures of the state and federal funds in the rehabilitation of persons disabled in industry or otherwise.

16. Enter into an agreement with the secretary of the United States department of health and human services relating to the matter of making determinations of disability under Title II and Title XVI of the federal Social Security Act as amended (42 U.S.C. ch 7).

17. Provide services as may be desirable and practicable for the vocational rehabilitation of severely handicapped persons and others entitled to the benefits of this chapter, including the establishment and operation of rehabilitation facilities and workshops.

18. Provide rehabilitation services to homebound and other handicapped individuals who as a result thereof can wholly or substantially achieve such ability of self help as to dispense or largely dispense with the need of an attendant.

19. Provide financial and other necessary assistance to public, or private agencies in the development, expansion, operation or maintenance of sheltered workshops or other rehabilitation facilities needed for the rehabilitation of the disabled when consistent with the policies of the board.

20. Provide vocational rehabilitation services to socially disadvantaged persons who are substantially impaired in their ability to earn a living. This may include but is not limited to recipients of public assistance, inmates of correctional institutions or rejectees of the selective service system, who because of lack of training, experience, skills or other factors, which if corrected would lead to self-support instead of dependency.

(83 Acts, ch 101, § 59) SF 136

Subsection 16 amended

CHAPTER 260

BOARD OF EDUCATIONAL EXAMINERS

260.9 Area education agency administrator's certificate. The board of educational examiners shall establish a certificate for area education agency administrators. The area education agency administrator's certificate shall be issued to an applicant who has met the requirements in two of the four following subsections:

1. Five years' experience in higher education administration at a two or four-year college or university which is accredited by the north central association of colleges and secondary schools accrediting agency or which has been certified by the north central association of colleges and secondary schools accrediting agency as a candidate for accreditation by that agency or as a school giving satisfactory assurance that it has the potential for accreditation and is making progress which, if continued, will result in its achieving accreditation by that agency within a reasonable time; or an earned doctorate in higher education administration.

2. Five years' experience in special education, media services, or educational services administration; or an earned doctorate in special education, media services, or educational services or any subspecialty of these services.

3. Five years' experience in primary or secondary school education; or an earned doctorate in educational administration for the primary or secondary level; and five years' teaching experience at any educational level.

4. Five years' experience in business or other nonacademic career pursuit; or an earned doctorate in public administration or business administration.

A person shall not be issued a temporary or emergency certificate for more than one year; and an education agency shall not employ uncertificated administrators,

or employ temporary or emergency certificated administrators for more than two consecutive years.

The provisions of this section relating to the certification of an area education agency administrator do not apply to persons holding a superintendent's certificate prior to July 1, 1975.

(83 Acts, ch 59, § 1) SF 266
 Subsection 2 amended

CHAPTER 261

COLLEGE AID COMMISSION

261.2 Duties of commission — federal co-operation. The commission shall:

1. Prepare and administer a state plan for higher education facilities which shall be the state plan submitted to the secretary of education, in connection with the participation of this state in programs authorized by the federal "Higher Education Facilities Act of 1963" (P.L. 88-204), (77 Stat. L. 363; 20 U.S.C. 701) together with any amendments thereto.

2. Provide for administrative hearings to every applicant for funds authorized under the "Higher Education Facilities Act of 1963" (P. L. 88-204), [77 Stat. L. 363; 20 U.S.C. 701] together with any amendments thereto, in regard to the priority assigned to such application for funds by said commission or to any other determination of the state commission adversely affecting the applicant.

3. Apply for, receive, administer, expend, and account for such federal moneys necessary for its own administrative expenses as authorized by the federal "Higher Education Facilities Act of 1963" (P. L. 88-204), [77 Stat. L. 363; 20 U.S.C. 701] together with any amendments thereto.

4. Prepare and administer a state plan for a state supported and administered scholarship program. Said state plan shall provide for scholarships based on ability and need to deserving students of Iowa, matriculating in Iowa universities, colleges, area vocational schools, area community colleges, or schools of professional nursing.

5. Receive, administer, and allot a tuition loan fund for the benefit of Iowa resident students enrolled in Iowa studying to be physicians or osteopathic physicians and surgeons and who agree to become general practitioners (family doctors) and practice in Iowa.

Said fund shall be allotted to students for not more than three years of study and shall be in the nature of a loan. Such loan shall have as one of its terms that fifty percent thereof shall be canceled at the end of five years of the general practice in Iowa with an additional ten percent to be canceled each year thereafter until the entire loan may be canceled. No interest shall be charged on any part of the loan thus canceled. Additional terms and conditions of said loan shall be established by the college aid commission so as to facilitate the purpose of this section.

Chapter 8 shall apply to this subsection except that section 8.5 shall not apply.

6. Administer the tuition grant program under this chapter.

7. Prepare a state plan, complete with fiscal implications, for a state matching program to match federal funds paid under the GI Bill Improvement Act of 1977 Public Law 95-202 to a veteran who is an Iowa resident for the purpose of repaying any school loans received by such veteran from the United States veterans administration.

8. Prepare and administer the Iowa science and mathematics loan program under this chapter.

9. Administer the supplemental grant program under this chapter.

(83 Acts, ch 101, § 60) SF 136
 Subsection 1 amended
 (83 Acts, ch 184, § 5, 11, 15) HF 532
 Effective June 15, 1983
 NEW subsections 8, 9

261.12 Amount of grant.

1. The amount of a tuition grant to a qualified full-time student for the fall and spring semesters, or the trimester equivalent, shall be the amount of his financial need for that period. However, a tuition grant shall not exceed the lesser of:

a. The total tuition and mandatory fees for that student for two semesters or the trimester or quarter equivalent, less the base amount determined annually by the college aid commission, which base amount shall be within ten dollars of the average tuition for two semesters or the trimester equivalent of undergraduate study at the state universities under the board of regents, but in any event the base amount shall not be less than four hundred dollars; or

b. For the fiscal year beginning July 1, 1983, and each following fiscal year two thousand one hundred dollars.

2. The amount of a tuition grant to a qualified half-time student for the fall and spring semesters, or the trimester or quarter equivalent, shall be one-half the amount which would be paid for a qualified full-time student under the provisions of subsection 1.

(83 Acts, ch 197, § 13) SF 533

Subsection 1, paragraph b amended

261.17 Vocational-technical tuition grants.

1. A vocational-technical tuition grant may be awarded to any resident of Iowa who is admitted and in attendance as a full-time student in a vocational-technical program at an area school in the state, and who establishes financial need.

2. A qualified student may receive vocational-technical tuition grants for not more than four semesters, eight quarters or the equivalent of two full years of study.

3. The amount of a vocational-technical tuition grant shall not exceed the lesser of four hundred fifty dollars per year or the amount of the student's established financial need.

4. A vocational-technical tuition grant shall be awarded on an annual basis, requiring reapplication by the student for each year. Payments under the grant shall be allocated equally among the semesters or quarters of the year upon certification by the institution that the student is in full-time attendance in a vocational-technical program, as defined under rules of the department of public instruction. If the student discontinues attendance before the end of any term after receiving payment of the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state.

5. If a student receives financial aid under any other program, the full amount of that financial aid shall be considered part of the student's financial resources available in determining the amount of his financial need for that period.

6. The commission shall administer this program and shall:

a. Provide application forms for distribution to students by Iowa high schools and area schools.

b. Adopt rules for determining financial need, defining residence for the purposes of this section, processing and approving applications for grants and determining priority for grants.

c. Approve and award grants on an annual basis.

d. Make an annual report to the governor and general assembly.

7. Each applicant, in accordance with the rules established by the commission, shall:

a. Complete and file an application for a vocational-technical tuition grant.

b. Be responsible for the submission of the financial information required for evaluation of his need for a grant, on forms determined by the commission.

c. Report promptly to the commission any information requested.

d. Submit a new application and financial statement for re-evaluation of his eligibility to receive a second-year renewal of the grant.

(83 Acts, ch 197, § 14) SF 533

Subsection 3 amended

261.22 Podiatry schools. Repealed by 83 Acts, ch 197, § 16. (SF 533)

261.23 Contract for right to enter school. Repealed by 83 Acts, ch 197, § 16. (SF 533)

261.25 Appropriation — standing limited.

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of nineteen million one hundred sixty-six thousand six hundred dollars for tuition grants.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of three hundred fifty thousand dollars for scholarships.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of six hundred seventy-two thousand four hundred seventy-two dollars for vocational-technical tuition grants.

4. This section shall not be construed to be a limitation on any of the amounts which may be appropriated by the general assembly for any program enumerated in this section.

It is the intent of the general assembly to extend the tuition grant program beginning July 1, 1977 to the half-time students as provided in this Act taking at least six semester hours or the trimester or quarter equivalent in the school year beginning in the fall of 1977 and limited to a maximum of five hundred thousand dollars for these half-time students unless this amount is changed by legislative action. It is the further intent to extend eligibility for the tuition grant program to nursing students as defined in this Act [66GA, ch 1196] beginning July 1, 1977.

(83 Acts, ch 197, § 15) SF 533

Subsections 1 and 3 amended

261.36 Powers. The commission shall have necessary powers to carry out its purposes and duties under this division, including but not limited to the power to:

1. Sue and be sued in its own name.

2. Incur and discharge debts including the payment of any defaulted loan obligations which have been guaranteed by the commission.

3. Make and execute agreements, contracts and other instruments with any public or private person or agency including the United States secretary of education.

4. Guarantee loans made by eligible lenders to eligible borrowers who are, or whose children are, enrolled or will be enrolled at eligible institutions as at least half-time students as defined by the commission.

5. Approve educational institutions as eligible institutions upon their meeting the requirements established by the commission.

6. Approve financial or credit institutions, insurance companies or other lenders as eligible lenders upon their meeting the standards established by the commission for making guaranteed loans.

7. Accept appropriations, gifts, grants, loans or other aid from public or private persons or agencies including the United States secretary of education.

8. Implement various means of encouraging maximum lender participation in the Iowa guaranteed student loan program.

(83 Acts, ch 101, § 61) SF 136

Subsections 3 and 7 amended

261.37 Duties. The duties of the commission under this division shall be as follows:

1. To review the Iowa guaranteed student loan program.

2. To review and make disposition of all applications for the guarantee of student loans.

3. Collect an insurance premium of not more than one percent per annum of the

principal amount of any loan guaranteed, beginning with the date of disbursement and ending one year after the date on which the borrower expects to complete the course of study for which the loan was made. Such premium shall be collected by the lender upon the disbursement of the loan and shall be remitted promptly to the commission.

4. To enter into all necessary agreements with the United States secretary of education as required for the purpose of receiving full benefit of the state program incentives offered pursuant to the Higher Education Act of 1965.

5. To promulgate rules pursuant to chapter 17A to implement the provisions of this division including establishing standards for educational institutions, lenders and individuals to become eligible institutions, lenders and borrowers. The rules and standards established shall be consistent with the requirements provided in the Higher Education Act of 1965.

6. To reimburse eligible lenders for one hundred percent of the principal and accrued interest on defaulted loans guaranteed by the commission upon receipt of written notice of such default accompanied by evidence that the lender has exercised the required degree of diligence in efforts to collect the loan.

7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the Iowa department of revenue to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan made under this division. The commission shall adopt rules under chapter 17A necessary to assist the department of revenue in the implementation of the student loan setoff program as established under section 421.17, subsection 23.

8. To develop and disseminate informational and educational materials to lenders, postsecondary institutions and borrowers.

9. To develop all forms necessary to the proper administration of the guaranteed student loan program and provide supplies of such forms to participating lenders and postsecondary institutions.

10. To report annually to the governor and the general assembly on the status of the guaranteed student loan program.

11. To implement all possible assistance to eligible lenders for the purpose of easing the workload entailed in participation in the guaranteed student loan program.

(83 Acts, ch 101, § 62) SF 136

Subsection 4 amended

261.45 Guaranteed loan payment program. There is established a guaranteed student loan payment program to be administered by the commission. An individual who meets all of the following conditions is eligible for reimbursement payments under the program if the individual:

1. Is a teacher employed on a full-time basis under sections 279.13 through 279.19 in a school district in this state or is a teacher in an approved nonpublic school in this state.

2. Has an outstanding debt with an eligible lender under the Iowa guaranteed student loan program as of the beginning of a school year.

3. Has never defaulted on a loan guaranteed by the commission or by the federal government.

4. Teaches one or more of the following during that school year:

a. A sequential mathematics course at the advanced algebra level or higher.

b. A chemistry, advanced chemistry, physics or advanced physics course.

5. Graduated from college after January 1, 1983 with a major in mathematics or science.

The commission shall adopt rules under chapter 17A to provide for the administration of this program.

There is appropriated from the general fund of the state to the Iowa college aid

commission, the sum of thirty thousand dollars, or as much thereof as is necessary, for the fiscal year beginning July 1, 1983, and the sum of sixty thousand dollars, or as much thereof as is necessary, for the fiscal year beginning July 1, 1984 and each succeeding fiscal year, to make the reimbursement payments required under this section.

Maximum annual reimbursement payments to an eligible teacher for loan repayments made during a school year shall be equal to one thousand dollars or the remainder of a loan, whichever is less. Total payments for an eligible teacher shall not exceed six thousand dollars. If a teacher fails to complete a year of instruction in a course listed in subsection 4, the teacher shall not be reimbursed for loan repayments made during that school year.

(83 Acts, ch 184, § 2, 15) HF 532

Effective June 15, 1983

NEW section

261.51 Science and mathematics loan program. The Iowa science and mathematics loan program is established to be administered by the commission. The purpose of the loan program is to assist teachers to obtain or to upgrade their teaching authorization in the areas of science or mathematics. The commission shall adopt rules under chapter 17A, in consultation with the board of educational examiners, to administer the program. The rules shall provide that loans not be granted to teachers for the purpose of improving their knowledge of subject content or teaching skills in order to teach courses in subject matter areas for which they possess approval granted by the board of educational examiners. The rules shall also provide that priority for loans be given to teachers possessing minimal qualifications for teaching science or mathematics.

(83 Acts, ch 184, § 6, 15) HF 532

Effective June 15, 1983

NEW section

261.52 Loans to teachers. Loans may be granted only to a person possessing a valid teacher's certificate issued under chapter 260. The annual amount of a loan to a teacher enrolled as a full-time student shall not exceed one thousand dollars for the fiscal year beginning July 1, 1983 and one thousand five hundred dollars for each succeeding fiscal year, or the total amount of tuition and fees, whichever is less. The annual amount of a loan to a teacher enrolled on at least a half-time basis shall not exceed five hundred dollars for the fiscal year beginning July 1, 1983 and seven hundred fifty dollars for each succeeding fiscal year, or the total amount of tuition and fees, whichever is less. Loans may be made for courses in programs offered in this state and approved by the board of educational examiners. The board of educational examiners shall adopt rules pursuant to chapter 17A for approval of programs. The rules shall require that the programs provide training in both subject content and teaching methodology for mathematics and science teaching.

The commission shall set a final date for submission of applications each year and shall review the applications and inform the recipients within a reasonable time after the deadline.

(83 Acts, ch 184, § 7, 15) HF 532

Effective June 15, 1983

NEW section

261.53 Appropriations. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1983 the sum of forty thousand dollars, or as much thereof as is necessary, and for each succeeding fiscal year, the sum of one hundred forty thousand dollars, or as much thereof as is necessary, to make loans under sections 261.28 and 261.29.

(83 Acts, ch 184, § 8, 15) HF 532

Effective June 15, 1983

NEW section

261.54 Repayment. Repayment of the loan shall begin one year after the teacher completes the educational program for which tuition and fees are received. If a teacher submits evidence to the commission that the teacher was employed as a teacher of one or more science or mathematics courses or as an elementary teacher teaching science and mathematics in a public school district or nonpublic school in this state during that year, fifty percent of the amount of the loan is canceled.

At the end of the second year, if the teaching requirements are met, the remainder of the loan is forgiven and payments made by that teacher during the year shall be refunded to the teacher.

There is created a science and mathematics loan repayment fund for deposit of payments made by teachers. Refunds of payments by teachers shall be paid by the commission to the teachers from the fund created in this section. Payments made by teachers that are not refunded shall be transferred on each June 30 from the fund created in this section to the general fund of the state.

The interest rate collected on the loan shall be equal to the interest rate being collected by an eligible lender under the guaranteed student loan program.

The commission shall prescribe by rule the terms of repayment which shall provide for monthly payments of principal and interest of not less than seventy-five dollars.

(83 Acts, ch 184, § 9, 15) HF 532

Effective June 15, 1983

NEW section

261.61 Supplemental grant program. A person who graduates from a public or nonpublic high school in this state after January 1, 1984 who has successfully completed at least seven units of science and mathematics courses, and at least three of the seven units include sequential mathematics courses at the advanced algebra level or higher, chemistry, advanced chemistry, physics, or advanced physics courses, and who attends an eligible institution is eligible for a supplemental grant provided in this chapter.

The department of public instruction shall transmit to the commission a list of high school graduates who have successfully completed the courses required in this section.

For the purpose of this section and section 261.62, an eligible institution is an accredited private institution as defined in section 261.9, subsection 5, an institution of higher learning under the state board of regents, or a merged area school established under chapter 280A.

(83 Acts, ch 184, § 12, 15) HF 532

Effective June 15, 1983

NEW section

261.62 Payment of grants. A student meeting the requirements of section 261.61 may make application to the commission, on forms prescribed by the commission, for payment of a supplemental grant to an eligible institution in which the student is enrolled on a full-time basis. The maximum supplemental grant is five hundred dollars per year. Payment under the grant shall be allocated equally among the semesters or trimesters and shall be paid at the beginning of each semester or trimester upon certification by the eligible institution that the student is admitted as a full-time student and in attendance. If the student discontinues attendance before the end of a semester or trimester after receiving payment under the grant, the amount of refund due the student, up to the amount of payment under the grant, shall be paid by the eligible institution to the state.

An eligible student may receive a supplemental grant for two semesters of undergraduate study or the trimester equivalent.

The amount of a supplemental grant to a student shall not be considered when determining financial need under the Iowa tuition grant and Iowa scholarship programs.

(83 Acts, ch 184, § 13, 15) HF 532

Effective June 15, 1983

NEW section

261.63 Appropriation. Commencing July 1, 1984, there is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million five hundred thousand dollars for supplemental grants.

(83 Acts, ch 184, § 14, 15) HF 532

Effective June 15, 1983

NEW section

CHAPTER 263

UNIVERSITY OF IOWA

263.10 Persons admitted. Every resident of the state who is not more than twenty-one years of age, who is so severely handicapped as to be unable to acquire an education in the common schools, and every such person who is twenty-one and under thirty-five years of age who has the consent of the state board of regents, shall be entitled to receive an education, care, and training in the institution, and nonresidents similarly situated may be entitled to an education and care therein upon such terms as may be fixed by the state board of regents. The fee for nonresidents shall be not less than the average expense of resident pupils and shall be paid in advance. Residents and persons under the care and control of a director of a division of the department of human services who are severely handicapped may be transferred to the hospital-school upon such terms as may be agreed upon by the state board of regents and such director.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 270

SCHOOL FOR THE DEAF

270.7 Payment by county. The county auditor shall, upon receipt of the certificate, pass it to the credit of the state, and issue a notice to the county treasurer authorizing the county treasurer to transfer the amount to the general state revenue, which shall be filed by the treasurer as authority for making the transfer, and the county treasurer shall include the amount in the next remittance of state taxes to the treasurer of state, designating the fund to which it belongs.

If a county fails to pay these bills within sixty days from the date of certificate from the superintendent, the state comptroller shall charge the delinquent county a penalty of three-fourths of one percent per month on and after sixty days from the date of certificate until paid. The penalties shall be credited to the general fund of the state.

(83 Acts, ch 123, § 106, 209) HF 628

Amended

CHAPTER 273

AREA EDUCATION AGENCY

273.3 Duties of area education agency board. The board in carrying out the provisions of section 273.2 shall:

1. Determine the policies of the area education agency for providing programs and services.

2. Be authorized to receive and expend money for providing programs and services as provided in sections 273.1 to 273.9, chapters 281 and 442. All costs incurred in providing the programs and services, including administrative costs,

shall be paid from funds received pursuant to sections 273.1 to 273.9 and chapters 281 and 442.

3. Provide data and prepare reports as directed by the superintendent of public instruction and the state board.

4. Provide for advisory committees as deemed necessary.

5. Be authorized, subject to rules and regulations of the state board of public instruction, to provide directly or by contractual arrangement with public or private agencies for special education programs and services, media services, and educational programs and services requested by the local boards of education as provided in this chapter, including but not limited to contracts for the area education agency to provide programs or services to the local school districts and contracts for local school districts, other educational agencies, and public and private agencies to provide programs and services to the local school districts in the area education agency in lieu of the area education agency providing the services. Contracts may be made with public or private agencies located outside the state if the programs and services comply with the rules of the state board.

6. Area education agencies may co-operate and contract between themselves to provide special education programs and services to children residing within their respective areas.

7. Be authorized to lease, subject to the approval of the state board of public instruction and to receive by gift and operate and maintain facilities and buildings necessary to provide authorized programs and services. However, a lease for less than ten years and with an annual cost of less than twenty-five thousand dollars does not require the approval of the state board. If a lease requires approval, the state board shall not approve the lease until the state board is satisfied by investigation that public school corporations within the area do not have suitable facilities available.

8. Be authorized, subject to the approval of the state board of public instruction, to enter into agreements for the joint use of personnel, buildings, facilities, supplies and equipment with school corporations as deemed necessary to provide authorized programs and services.

9. Be authorized to make application for, accept, and expend state and federal funds that are available for programs of educational benefit approved by the state board of public instruction, and co-operate with the department and the state board in the manner provided in federal-state plans or department rules in the effectuation and administration of programs approved by the department, or approved by other educational agencies, which agencies have been approved as a state educational authority.

10. In any county operating a juvenile home, upon request of the county board of supervisors, provide suitable curriculum, teaching staff, books, supplies, and other necessary materials for the instruction of children of school age who are maintained in the juvenile home of the county, as provided in section 232.142. Reimbursement for the cost of instruction provided under this section shall be made pursuant to section 273.11.

11. Be authorized to perform all other acts necessary to carry out the provisions and intent of this chapter.

12. Employ personnel to carry out the functions of the area education agency which shall include the employment of an administrator who shall possess a certificate issued under section 260.9. The administrator shall be employed pursuant to section 279.20 and sections 279.23, 279.24 and 279.25. The salary for an area education agency administrator shall be established by the board based upon the previous experience and education of the administrator. The provisions of section 279.13 shall apply to the area education agency board and to all teachers employed by the area education agency. The provisions of sections 279.23, 279.24 and 279.25 shall apply to the area education board and to all administrators employed by the area education agency.

13. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 281 within the limits of funds provided under section 281.9 and chapter 442. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county located wholly or partially in the territory of the area education agency. The notice shall specify the date which shall be not later than November 10 of each year, time, and location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of public instruction, on forms provided by the department, no later than December 1 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall prior to January 1 either grant approval or return the budget without approval with comments of the state board included. Any unapproved budget shall be resubmitted to the state board for final approval.

14. Be authorized to pay, out of funds available to the board reasonable annual dues to an Iowa association of school boards. Membership shall be limited to those duly elected members of the area education agency board.

15. At the request of an employee through contractual agreement the board may arrange for the purchase of an individual annuity contract for any of its respective employees from any company the employee may choose that is authorized to do business in this state, and through an Iowa-licensed insurance agent that the employee may select, for retirement or other purposes and may make payroll deductions in accordance with such arrangements for the purpose of paying the entire premium due, and to become due, under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403b of the Internal Revenue Code of 1954 and amendments* thereto. The employee's rights under such annuity contract shall be nonforfeitable except for the failure to pay premiums.

16. Be authorized to establish and pay all or any part of the cost of group health insurance plans, nonprofit group medical service plans and group life insurance plans adopted by the board for the benefit of employees of the area education agency, from funds available to the board.

17. Meet at least annually with the members of the boards of directors of the merged areas in which the area education agency is located to discuss co-ordination of programs and services and other matters of mutual interest to the boards.

(83 Acts, ch 2, § 1) HF 132
Subsection 5 amended

CHAPTER 275

REORGANIZATION OF SCHOOL DISTRICTS

275.1 Declaration of policy — surveys. It is declared to be the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining twelve grades. If any school district ceases to maintain twelve grades except as otherwise provided in sections 280.15, 257.28, and 282.7, subsection 1, it shall reorganize within six months or the state board shall attach the school district not maintaining twelve grades to one or more adjacent districts. Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous to one another. A reorganized district shall meet the requirements of section 275.3.

If a district is attached, division of assets and liabilities shall be made as provided in sections 275.29 to 275.31. The area education agency boards shall develop detailed studies and surveys of the school districts within the area education agency and all

adjacent territory for the purpose of providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in the schools. The plans shall be revised periodically to reflect reorganizations which may have taken place in the area education agency and adjacent territory.

(83 Acts, ch 31, § 2) HF 344

Unnumbered paragraph 1 amended

275.12 Petition — method of election.

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of electors reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issuance of general obligation bonds at an election pursuant to section 296.6 during the preceding six-month period. The petition shall be signed by voters in each existing school district or portion affected equal in number to at least twenty percent of the number of eligible voters or four hundred voters, whichever is the smaller number. School district or portion affected means the area to be included in the plan of the proposed new school district.

2. Such petition shall also state the number of directors which may be either five or seven and the method of election of the school directors of the proposed district. The method of election of the directors shall be one of the following optional plans:

a. Election at large from the entire district by the electors of the entire district.

b. Division of the entire school district into designated geographical subdistricts on the basis of population, to be known as director districts, each of which director districts shall be represented on the school board by one director who shall be a resident of such director district but who shall be elected by the vote of the electors of the entire school district. The school district shall be divided into the same number of director districts as the number of school directors the district is authorized by law. The boundaries of such director districts and the area and population included within each district shall be such as justice, equity, and the interests of the people may require. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the annual school election. Insofar as may be practicable, the boundaries of such districts shall follow established political or natural geographical divisions.

c. Election of not more than one-half of the total number of school directors at large from the entire district and the remaining directors from and as residents of designated single-member or multi-member director districts into which the entire school district shall be divided on the basis of population for each director. In such case, all directors shall be elected by the electors of the entire school district. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the annual school election.

d. Division of the entire school district into designated geographical subdistricts on the basis of population, to be known as director districts, each of which director districts shall be represented on the school board by one director who shall be a resident of such director district and who shall be elected by the voters of said director district. Place of voting in such director districts shall be designated by the commissioner of elections. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the annual school election.

e. In districts having seven directors, election of three directors at large by the electors of the entire district, one at each annual school election, and election of the remaining directors as residents of and by the electors of individual geographic subdistricts established on the basis of population and identified as director districts.

Boundaries of the subdistricts shall follow precinct boundaries, insofar as practicable, and shall not be changed less than sixty days prior to the annual school election.

3. If the petition proposes the division of the school district into director districts, the boundaries of such proposed director districts shall be described in the petition.

4. The area education agency board in reviewing such petition as provided in sections 275.15 and 275.16 shall review the proposed method of election of school directors and shall have the duty and authority to change or amend such plan in any manner, including the changing of boundaries of director districts if proposed, or to specify a different method of electing school directors on the basis of area, school population, or assessed valuation as may be required by law, justice, equity, and the interest of the people. In such action the area education agency board shall follow the same procedure as is required by sections 275.15 and 275.16 for other action on the petition by the area education agency board.

5. The petition may also include a provision that the schoolhouse tax provided in section 278.1, subsection 7, will be voted upon at the election conducted under section 275.18.

(83 Acts, ch 91, § 1) HF 477

Subsection 1 amended

(83 Acts, ch 53, § 1) SF 466

Subsection 2, paragraph c amended

275.17 Filing a petition. If an area education agency board does not approve the change in boundaries of school districts in accordance with a petition, a petition describing the identical or similar boundaries shall not be filed for a period of six months following the date of the hearing or the vote of the board, whichever is later.

(83 Acts, ch 91, § 2) HF 477

Amended

275.18 Special election called — time. When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of the proposed school corporation have been determined as provided in this chapter, the area education agency administrator with whom the petition is filed shall give written notice of the proposed date of the election to the county commissioner of elections of the county in the proposed school corporation which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to sections 39.2, subsections 1 and 2, and 47.6, subsections 1 and 2, but not later than November 30 of the calendar year prior to the calendar year in which the reorganization will take effect. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition, if more than one county is involved, by one publication in a legal newspaper in each county other than that of the first publication. The publication shall be not less than four nor more than twenty days prior to the election. Notice for an election shall not be published until the expiration of time for appeal, which shall be the same as that provided in section 275.15 or 275.16, whichever is applicable; and if there is an appeal, not until the appeal has been disposed of.

(83 Acts, ch 53, § 2) SF 466

Amended

275.22 Canvass and return. The precinct election officials shall count the ballots, and make return to and deposit the ballots with the county commissioner of elections, who shall enter the return of record in the commissioner's office. The county commissioner of elections shall certify the results of the election to the area education agency administrator. If the majority of the votes cast by the qualified electors is in favor of the proposition, as provided in section 275.20, a new school corporation shall be organized. If the majority of votes cast is opposed to the

proposition, a new petition describing the identical or similar boundaries shall not be filed for at least six months from the date of the election. The area education agency administrator shall file a written description of the boundaries as provided in section 274.4.

(83 Acts, ch 91, § 3) HF 477

Amended

275.23A Redistricting following federal decennial census.

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs *b* through *e*, shall be divided into director districts on the basis of population as determined from the most recent federal decennial census. The director districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of director districts to be established into the population of the school district. The director districts shall be composed of contiguous territory as compact as practicable.

2. If following a federal decennial census a school district fails to meet population equality requirements, the board of directors of the school district shall adopt a resolution redrawing the director districts not earlier than November 15 of the year immediately following the year in which the federal decennial census is taken nor later than May 30 of the second year immediately following the year in which the federal decennial census is taken. A copy of the adopted plan shall be filed with the area education agency administrator of the area education agency in which the school's electors reside.

3. The school board shall notify the state commissioner of elections and the county commissioner of elections of each county in which a portion of the school district is located whenever the boundaries of director districts are changed. The board shall provide the commissioners with maps showing the new boundaries. If, following a federal decennial census a school district elects not to redraw director districts under this section, the school board shall so certify to the state commissioner of elections, and the school board shall also certify to the state commissioner the populations of the retained director districts as determined under the latest federal decennial census. Upon failure of a district board to make the required changes by the dates established under this section, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible, and shall assess any expenses incurred to the school district. The state commissioner may request the services of personnel of and materials available to the legislative service bureau to assist the commissioner in making any required boundary changes.

4. If more than one incumbent director, whose term extends beyond the organizational meeting of the board of directors after the regular school election following the adoption of the redrawn districts, reside in a redrawn director district, the terms of office of the affected directors expire at the organizational meeting of the board of directors following the next regular school election.

5. The boundary changes under this section take effect July 1 following their adoption for the next regular school election.

6. Section 275.9 and sections 275.14 through 275.23 do not apply to changes in director district boundaries made under this section.

(83 Acts, ch 77, § 3, 4) SF 485

School boards not in compliance with this section must redraw director districts by May 30, 1984

NEW section

275.24 Effective date of change. When a school district is enlarged, reorganized, or changes its boundary pursuant to sections 275.12 to 275.22, the change shall take effect on July 1 following the date of the reorganization election held pursuant to section 275.18 if the election was held by the prior November 30. Otherwise the change shall take effect on July 1 one year later.

(83 Acts, ch 53, § 5) SF 466

Amended

275.25 Election of directors.

1. If the proposition to establish a new school district carries under the method provided in this chapter, the area education agency administrator with whom the petition was filed shall give written notice of a proposed date for a special election for directors of the newly formed school district to the commissioner of elections of the county in the district involved in the reorganization which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to sections 39.2, subsections 1 and 2, and 47.6, subsections 1 and 2, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. The election shall be conducted as provided in section 277.3, and nomination petitions shall be filed pursuant to section 277.4, except as otherwise provided in this subsection. Nomination petitions shall be filed with the secretary of the board of the existing school district in which the candidate resides, signed by not less than ten eligible electors of the newly formed district, and filed not less than thirty days prior to the date set for the special school election.

2. The number of directors of a school district is either five or seven as provided in section 275.12. In school districts that include a city of fifteen thousand or more population as shown by the most recent decennial federal census, the board shall consist of seven members elected in the manner provided in subsection 3. If it becomes necessary to increase the membership of a board, two directors shall be added according to the procedure described in section 277.23.

The county board of supervisors shall canvass the votes and the county commissioner of elections shall report the results to the area education agency administrator who shall notify the persons who are elected directors.

3. The directors who are elected to serve shall serve until their successors are elected and qualify. At the special election, the newly elected director receiving the most votes shall be elected to serve until the director's successor qualifies after the fourth regular school election date occurring after the effective date of the reorganization; the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the third regular school election date occurring after the effective date of the reorganization; and the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the second regular school election date occurring after the effective date of the reorganization. However, in districts that include all or a part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for the election of seven directors, the three newly elected directors receiving the most votes shall be elected to serve until the directors' successors qualify after the fourth regular school election date occurring after the effective date of the reorganization.

4. The board of the newly formed district shall organize within fifteen days after the special election upon the call of the area education agency administrator. The new board shall have control of the employment of personnel for the newly formed district for the next following school year under section 275.33. Following the organization of the board of the newly formed district, the board may establish policy, organize curriculum, enter into contracts, complete planning, and take action as necessary for the efficient management of the newly formed community school district.

5. Section 49.8, subsection 4 does not permit a director to remain on the board of a school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies caused by this occurrence on a board shall be filled in the manner provided in sections 279.6 and 279.7.

(83 Acts, ch 53 § 4) SF 466

Struck and rewritten

275.41 Alternative method for election of directors.

1. As an alternative to the method specified in section 275.25 for electing directors in a newly formed community school district, the procedure specified in this section may be used.

2. The board of the former school district with the largest population involved in the merger shall designate four directors to be retained as members of the board of the newly formed district. Other school districts involved in the merger shall each be allowed to retain directors in proportion to the ratio that the population of the former school district bears to the most populous district involved in the merger, except that no district involved in the merger shall retain less than one director.

3. If the procedure in subsection 2 results in four members being retained from the largest district involved in the merger and only a single member from the other district involved in the merger, the reorganization petition may specify that the distribution of the board members who are retained from the districts involved in the merger be five to one, five to two, or six to one.

4. If the total number of directors determined under subsection 2 or 3 is an odd number, the board of the district with the largest population shall designate the term of office of one of the members who is retained to commence at the organizational meeting of the board of the newly formed district and to end at the organizational meeting following the fourth regular school election held thereafter in the manner specified in the reorganization petition.

If the total number of directors determined under subsection 2 or 3 is an even number, that number of directors shall function until a special election can be held, at which time an additional director shall be elected to a term from the newly formed district ending at the organizational meeting following the fourth regular school election held thereafter. The procedure for calling the special election shall be the procedure specified in section 275.25.

5. The boards of directors of school districts which are involved in the merger which have three or more directors who are retained, shall each designate two of the directors who are retained to serve terms that expire at the organizational meeting following the second regular school election held thereafter. All other directors who are retained shall serve terms that expire at the organizational meeting following the third regular school election held thereafter. If there is an insufficient number of board members eligible to be retained from a former school district, the board of the former school district may appoint members to fill the vacancies. A vacancy occurs if there is an insufficient number of former board members who reside in the newly formed district or if there is an insufficient number who are willing to serve on the board of the newly formed district.

6. At the second regular school election held after the effective date of the merger, the two vacancies which will occur on the board shall be filled in a manner specified in the reorganization petition.

7. At the third regular school election held after the effective date of merger, if a five-member board is specified in the reorganization petition, two directors shall be elected in the manner specified in the reorganization petition and if a seven-member board is specified in the reorganization petition, four directors shall be elected, two for one-year terms and two for three-year terms, in the manner specified in the reorganization petition.

8. The board of the newly formed district shall organize within forty-five days after the approval of the merger upon the call of the area education agency administrator. The new board shall have control of the employment of all personnel for the newly formed district for the ensuing school year. Following the organization of the new board the board shall have authority to establish policy, organize curriculum, enter into contracts and complete such planning and take such action as is essential for the efficient management of the newly formed community school district.

Section 49.8, subsection 4, shall not permit a director to remain on the board of

a school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies so caused on any board shall be filled in the manner provided in sections 279.6 and 279.7.

(83 Acts, ch 53, § 5) SF 466
Subsection 5 amended

CHAPTER 277 SCHOOL ELECTIONS

277.1 Regular election. The regular election shall be held annually on the second Tuesday in September in each school district for the election of officers of the district and merged area and for the purpose of submitting to the voters any matter authorized by law.

(83 Acts, ch 101, § 63) SF 136
Amended

CHAPTER 279 DIRECTORS — POWERS AND DUTIES

279.10 School year — pilot programs.

1. The school year shall begin on the first day of July and each school regularly established shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained during the entire calendar year.

2. The board of directors shall hold a public hearing on any proposal prior to submitting it to the department of public instruction for approval.

3. The board of directors of a school district may request approval from the department of public instruction for a pilot program for an innovative school year. The number of days per year that school is in session may be more or less than those specified in subsection 1, but the innovative school year shall provide for an equivalent number of total hours that school is in session.

The board shall file a request for approval with the department not later than November 1 of the preceding school year. The request shall include a listing of the savings and goals to be attained under the innovative school year subject to rules adopted by the department under chapter 17A. The department shall notify the districts of the approval or denial of pilot programs not later than the next following January 15.

A request to continue an innovative school year pilot project after its initial year also shall include an evaluation of the savings and impacts on the educational program in the district.

Participation in a pilot project shall not modify provisions of a master contract negotiated between a school district and a certified bargaining unit pursuant to chapter 20 unless mutually agreed upon.

(83 Acts, ch 17, § 1, 3, 4) HF 120

Effective April 15, 1983

Pilot programs for school year beginning July 1, 1983; approval must be requested by June 1, 1983

Subsection 1 amended

NEW subsections 2 and 3

279.33 Annual settlements. At a regular or special meeting held not later than August 15, the board of each school corporation shall meet, examine the books of and settle with the secretary and treasurer for the year ending on the preceding June 30, and transact other business as necessary. The treasurer at the time of settlement shall furnish the board with a sworn statement from each depository showing the balance then on deposit in the depository. If the secretary or treasurer fail to make proper reports for the settlement, the board shall take action to obtain the balance information.

(83 Acts, ch 185, § 4, 62) HF 562

Amended

279.34 Financial statement — publication. In each school district, the board shall, during the second week of August of each year, publish by one insertion in at least one newspaper, if there is a newspaper published in the district, a summarized statement verified by affidavit of the secretary of the board showing the receipts and disbursements of all funds for the preceding school year. In all districts of more than one hundred twenty-five thousand population, the statement of disbursements is to show the names of the persons, firms, or corporations, and the total amount paid to each during the school year.

(83 Acts, ch 185, § 5, 62) HF 562

Amended

279.35 Other districts — filing statement. In every school district in which no newspaper is published, the president and secretary of the board of directors shall file the statement required in section 279.34 with the area education agency administrator during the second week of August of each year and shall post copies of the statement in three conspicuous places in the district.

(83 Acts, ch 185, § 6, 62) HF 562

Amended

279.38 Membership in association of school boards. Boards of directors of school corporations may pay, out of funds available to them, reasonable annual dues to the Iowa association of school boards. The financial condition and transactions of the Iowa association of school boards shall be audited in the same manner as school corporations as provided in section 11.18. In addition, annually the Iowa association of school boards shall publish a listing of the school districts and the annual dues paid by each and shall publish an accounting of all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association.

Membership in such an Iowa association of school boards shall be limited to those duly elected members of the boards of directors of local school corporations.

(83 Acts, ch 185, § 7, 62) HF 562

Unnumbered paragraph 1 amended

CHAPTER 280A

AREA VOCATIONAL SCHOOLS AND COMMUNITY COLLEGES

280A.20 Payment of bonds. Taxes for the payment of bonds issued under section 280A.19 shall be levied in accordance with chapter 76. The bonds shall be payable from a fund created from the proceeds of the taxes in not more than twenty years and bear interest at a rate not exceeding the rate permitted by chapter 74A, and shall be of the form as the board issuing the bonds shall by resolution provide. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes.

(83 Acts, ch 188, § 2) HF 643

Amended

280A.28 Tax for equipment replacement. Annually, the board of directors may certify for levy a tax on taxable property in the merged area at a rate not exceeding three cents per thousand dollars of assessed valuation for equipment replacement for the area school.

(83 Acts, ch 180, § 1, 2) SF 537

Repealed effective July 1, 1988

NEW section

280A.35 Limitation on land. A merged area may not purchase land which will increase the aggregate of land owned by the merged area, excluding land acquired by donation or gift, to more than three hundred twenty acres without the approval of the state board. The limitation does not apply to a merged area owning more than three hundred twenty acres, excluding land acquired by donation or gift, prior to January 1, 1969.

With the approval of the state board, the board of directors of any merged area at any time may sell any land in excess of one hundred sixty acres owned by the merged area, and no election shall be necessary in connection with such sale notwithstanding any other provisions of law. The proceeds of the sale may be used for any of the purposes stated in section 280A.22. This paragraph is in addition to any authority under other provisions of law.

(83 Acts, ch 25, § 1) SF 88

Unnumbered paragraph 1 amended

CHAPTER 280B

IOWA INDUSTRIAL NEW JOBS TRAINING ACT

NEW chapter

280B.1 Title. This chapter shall be known and may be cited as the "Iowa industrial new jobs training Act".

(83 Acts, ch 171, § 1, 8) HF 623

Effective June 11, 1983

NEW section

280B.2 Definitions. When used in this chapter, unless the context otherwise requires:

1. "New jobs training program" or "program" means the project or projects established by an area school for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the area school.

2. "Project" means a training arrangement which is the subject of an agreement entered into between the area school and an employer to provide program services.

3. "Program services" includes but is not limited to the following:

a. New jobs training.

b. Adult basic education and job-related instruction.

c. Vocational and skill-assessment services and testing.

d. Training facilities, equipment, materials, and supplies.

e. On-the-job training.

f. Administrative expenses for the new jobs training program.

g. Subcontracted services with institutions governed by the board of regents, private colleges or universities, or other federal, state, or local agencies.

h. Contracted or professional services.

i. Issuance of certificates.

4. "Program costs" means all necessary and incidental costs of providing program services.

5. "Employer" means the person providing new jobs in the merged area served by the area school and entering into an agreement.

6. "Employee" means the person employed in a new job.

7. "Agreement" is the agreement between an employer and an area school concerning a project.

8. "Area school" means a vocational school or a community college established under chapter 280A.

9. "Board of directors" means the board of directors of an area school.

10. "Incremental property taxes" means the taxes as provided in section 280B.4.

11. "New jobs credit from withholding" means the credit as provided in section 280B.5.

12. "Date of commencement of the project" means the date of the agreement.

13. "Certificate" means industrial new jobs training certificates issued pursuant to section 280B.6.

14. "Industry" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services. "Industry" does not include a business which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state of Iowa. This subsection does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

15. "New job" means a job in a new or expanding industry but does not include jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state of Iowa.

(83 Acts, ch 171, § 2, 8) HF 623

Effective June 11, 1983

NEW section

280B.3 Agreement. An area school may enter into an agreement to establish a project. If an agreement is entered into, the area school and the employer shall notify the department of revenue as soon as possible. An agreement may provide, but is not limited to:

1. Program costs, including deferred costs, may be paid from one or a combination of the following sources:

a. Incremental property taxes to be received or derived from an employer's business property where new jobs are created as a result of the project.

b. New jobs credit from withholding to be received or derived from new employment resulting from the project.

c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs in whole or in part.

d. Guarantee of payments to be received under paragraph a, b, or c.

2. Payment of program costs shall not be deferred for a period longer than ten years from the date of commencement of the project.

3. Costs of on-the-job training for employees shall not exceed fifty percent of the annual gross payroll costs for up to one year of the new jobs. For purposes of this subsection, "gross payroll" can be the gross wages, salaries, and benefits for the jobs in training in the project.

4. A provision which fixes the minimum amount of incremental property taxes, new jobs credit from withholding, or tuition and fee payments which shall be paid for program costs.

5. Any payments required to be made by an employer are a lien upon the employer's business property until paid and have equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchaser at tax sale obtains the property subject to the remaining payments.

(83 Acts, ch 171, § 3, 8) HF 623

Effective June 11, 1983

NEW section

280B.4 Incremental property taxes. If an agreement provides that all or part of program costs are to be paid for by incremental property taxes, the board of directors shall provide by resolution that taxes levied on the employer's taxable business property, where new jobs are created as a result of a project, each year by

or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the employer's business property, where new jobs are created as a result of a project, was taxable property in an urban renewal project and the resolution was an ordinance within the meaning of those subsections. The taxes received by the board of directors shall be allocated to and when collected be paid into a special fund of the area school and may be irrevocably pledged by the area school to pay the principal of and interest on the certificates issued by the area school to finance or refinance, in whole or in part, the project. However, with respect to any urban renewal project as to which an ordinance is in effect under section 403.19, the collection of incremental property taxes authorized by this chapter are suspended in favor of collection of incremental taxes under section 403.19. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property of the employer's business, where new jobs are created as a result of a project.

(83 Acts, ch 171, § 4, 8) HF 623

Effective June 11, 1983

NEW section

280B.5 New jobs credit from withholding. If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, it shall be done as follows:

1. New jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs.

2. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue, to the area school to be allocated to and when collected paid into a special fund of the area school to pay the principal of and interest on certificates issued by the area school to finance or refinance, in whole or in part, the project. When the principal and interest on the certificates have been paid, the employer credits shall cease and any money received after the certificates have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The new jobs credit from withholding and the special fund into which it is paid, may be irrevocably pledged by an area school for the payment of the principal of and interest on the certificate issued by an area school to finance or refinance, in whole or in part, the project.

4. The employer shall certify to the department of revenue that the credit in withholding is in accordance with an agreement and shall provide other information the department may require.

5. An area school shall certify to the department of revenue the amount of new jobs credit from withholding an employer has remitted to the special fund and shall provide other information the department may require.

6. An employee participating in a project will receive full credit for the amount withheld as provided in section 422.16.

(83 Acts, ch 171, § 5, 8) HF 623

Effective June 11, 1983

NEW section

280B.6 Certificates. To provide funds for the present payment of the costs of new jobs training programs, an area school may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments

authorized by the agreement. The receipts shall be pledged to the payment of principal of and interest on the certificates.

1. Certificates may be sold at public sale as provided by chapter 75 or at private sale at par, premium, or discount at the discretion of the board of directors. However, chapter 76 does not apply to the issuance of these certificates.

2. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of directors may provide by resolution authorizing the issuance of the certificates.

3. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded, may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

4. To further secure the payment of the certificates, the board of directors shall, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property within the merged area. A copy of the resolution shall be sent to the county auditor of each county in which the merged area is located. The revenues from the standby tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the certificates issued as provided in this section, when the receipt of payment for program costs as provided in the agreement is insufficient. If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available payments received for program costs as provided in the agreement which are not required for the payment of principal of or interest on certificates due. No reserves may be built up in this fund in anticipation of a projected default. The board of directors shall adjust the annual standby tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

5. Before certificates are issued, the board of directors shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice by action in the district court of a county in the area within which the area school is located, appeal the decision of the board of directors in proposing to issue the certificates. The action of the board of directors in determining to issue the certificates is final and conclusive unless the district court finds that the board of directors has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of directors to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

6. The board of directors shall determine if revenues are sufficient to secure the faithful performance of obligations in the agreement.

(83 Acts, ch 171, § 6, 8) HF 623

Effective June 11, 1983

NEW section

280B.7 Development commission. The Iowa development commission in consultation with the department of public instruction and the office for planning and programming shall coordinate the new jobs training program. The Iowa development commission shall adopt, amend, and repeal rules under chapter 17A that the

area school will use in developing projects with new and expanding industrial new jobs training proposals. The commission is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The Iowa development commission shall prepare an annual report for the governor and general assembly on the activities of the industrial new jobs training program.

(83 Acts, ch 171, § 7, 8) HF 623

Effective June 11, 1983

NEW section

CHAPTER 281

EDUCATION OF CHILDREN REQUIRING SPECIAL EDUCATION

281.2 Definitions.

1. "*Children requiring special education*" means persons under twenty-one years of age, including children under five years of age, who are handicapped in obtaining an education because of physical, mental, communication or learning disabilities or who are behaviorally disordered, as defined by the rules of the department of public instruction.

2. "*Special education*" means classroom, home, hospital, institutional, or other instruction designed to meet the needs of children requiring special education as defined in subsection 1; transportation and corrective and supporting services required to assist children requiring special education, as defined in subsection 1, in taking advantage of, or responding to, educational programs and opportunities, as defined by rules of the state board of public instruction.

It is the policy of this state to provide and to require school districts to make provision, as an integral part of public education, for special education opportunities sufficient to meet the needs and maximize the capabilities of children requiring special education. This chapter is not to be construed as encouraging separate facilities or segregated programs designed to meet the needs of children requiring special education when such children can benefit from all or part of the education program as offered by the local school district. To the maximum extent possible, children requiring special education shall attend regular classes and shall be educated with children who do not require special education. Whenever possible, hindrances to learning and to the normal functioning of children requiring special education within the regular school environment shall be overcome by the provision of special aids and services rather than by separate programs for those in need of special education. Special classes, separate schooling or other removal of children requiring special education from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the educational handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily. For those children who cannot adapt to the regular educational or home living conditions, and who are attending facilities under chapters 263, 269 and 270, upon the request of the board of directors of an area education agency, the department of human services shall provide residential or detention facilities and the area education agency shall provide special education programs and services. The area education agencies shall co-operate with the board of regents to provide the services required by this Act*.

Special aids and services shall be provided to children requiring special education who are less than five years of age if the aids and services will reasonably permit the child to enter the educational process or school environment when the child attains school age.

Every child requiring special education shall, if reasonably possible, receive a level

of education commensurate with the level provided each child who does not require special education. The cost of providing such an education shall be paid as provided in section 273.9, this chapter and chapter 442. It shall be the primary responsibility of each school district to provide special education to children who reside in that district if the children requiring special education are properly identified, the educational program or service has been approved, the teacher or instructor has been certified, the number of children requiring special education needing that educational program or service is sufficient to make offering the program or service feasible, and the program or service cannot more economically and equably be obtained from the area education agency, another school district, another group of school districts, a qualified private agency, or in co-operation with one or more other districts.

Any funds received by the school district of the child's residence for the child's education, derived from funds received through chapter 442, this chapter and section 273.9 shall be paid by the school district of the child's residence to the appropriate education agency, private agency, or other school district providing special education for the child pursuant to contractual arrangements as provided in section 273.3, subsections 5 and 7.

(83 Acts, ch 3, § 1) HF 133

Subsection 1 amended

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, unnumbered paragraph 2 amended

*65GA, ch 1172

281.3 Powers and duties of state department. The division of special education, subject to the approval of the state board, shall have the following duties and powers:

1. To aid in the organization of special schools, classes and instructional facilities for children requiring special education, and to supervise the system of special education for children requiring special education.

2. To adopt rules consistent with the provisions of this chapter for the approval of plans for special education programs and services submitted by the director of special education of the area education agency.

3. To adopt plans for the establishment and maintenance of day classes, schools, home instruction, and other methods of special education for children requiring special education.

4. To purchase and otherwise acquire special equipment, appliances and other aids for use in special education, and to loan or lease same under such rules and regulations as the department may prescribe.

5. To prescribe courses of study, and curricula for special schools, special classes and special instruction of children requiring special education, including physical and psychological examinations, and to prescribe minimum requirements for children requiring special education to be admitted to any such special schools, classes or instruction.

6. To provide for certification by the director of special education of the eligibility of children requiring special education for admission to, or discharge from, special schools, classes or instruction.

7. To initiate the establishment of classes for children requiring special education or home study services in hospitals, nursing, convalescent, juvenile and private homes, in co-operation with the management thereof and local school districts or area education agency boards.

8. To co-operate with school districts or area education agency boards in arranging for any child requiring special education to attend school in a district other than the one in which he resides when there is no available special school, class, or instruction in the districts in which he resides.

9. To co-operate with existing agencies such as the department of human services, the state department of public health, the state school for the deaf, the Iowa

braille and sight-saving school, the state tuberculosis sanatorium, the children's hospitals, or other agencies concerned with the welfare and health of children requiring special education in the co-ordination of their educational activities for such children.

10. To investigate and study the needs, methods and costs of special education for children requiring special education.

11. To provide for the employment and establish standards for the performance of special education support personnel required to assist in the identification of and educational programs for children requiring special education.

12. To provide for the establishment of special education research and demonstration projects and models for special education program development.

13. To establish a special education resource, materials and training system for the purposes of developing specialized instructional materials and provide in-service training to personnel employed to provide educational services to children requiring special education.

14. To approve the acquisition and use of special facilities designed for the purpose of providing educational services to children requiring special education.

15. To make rules to carry out the powers and duties provided for in this section.

(83 Acts, ch 101, § 64) SF 136

Subsection 9 amended

(83 Acts, ch 96, § 160) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 9 amended

281.9 Weighting plan.

1. In order to provide funds for the excess costs of instruction of children requiring special education, above the costs of instruction of pupils in a regular curriculum, a special education weighting plan for determining enrollment in each school district is adopted as follows:

a. Pupils in a regular curriculum are assigned a weighting of one.

b. Children requiring special education who require special adaptations while assigned to a regular classroom for basic instructional purposes and handicapped pupils placed in a special education class who receive part of their instruction in regular classrooms are assigned a weighting of one and eight-tenths for the school year commencing July 1, 1975.

c. Children requiring special education who require full-time, self-contained special education placement with little integration into a regular classroom are assigned a weighting of two and two-tenths for the school year commencing July 1, 1975.

d. Children requiring special education who are severely handicapped or who have multiple handicaps are assigned to a weighting of four and four-tenths for the school year commencing July 1, 1975.

e. Shared-time and part-time pupils of school age who require special education shall be placed in the proper category and counted in the proportion that the time for which they are enrolled or receive instruction for the school year bears to the time that full-time pupils, carrying a normal course schedule, in the same school district, for the same school year are enrolled and receive instruction.

2. The weighting for each category of child multiplied by the number of children in each category in the enrollment of a school district, as identified and certified by the director of special education for the area, determines the weighted enrollment to be used in that district for purposes of computations required under the state school foundation plan in chapter 442.

3. The weight that a child is assigned under this section shall be dependent upon the required educational modifications necessary to meet the special education needs of the child. Enrollment for the purpose of this section, and all payments to be made pursuant thereto, includes all children for whom a special education program or

course is to be provided pursuant to sections 273.1 to 273.9 and this chapter, whether or not the children are actually enrolled upon the records of a school district.

4. On December 1, 1975, and no later than December 1 every two years thereafter, for the school year commencing the following July 1, the superintendent of public instruction shall report to the school budget review committee the average costs of providing instruction for children requiring special education in the categories of the weighting plan established under this section, and the state board of public instruction shall make recommendations to the school budget review committee for needed alterations to make the weighting plan suitable for subsequent school years. The school budget review committee shall establish the weighting plan for each school year after the school year commencing July 1, 1975, and shall report the plan to the superintendent of public instruction. The school budget review committee shall not alter the weighting assigned to pupils in a regular curriculum, but it may increase or decrease the weighting assigned to each category of children requiring special education by not more than two-tenths of the weighting assigned to pupils in a regular curriculum. The state board of public instruction shall promulgate rules under chapter 17A, to implement the weighting plan for each year and to assist in identification and proper indexing of each child in the state who requires special education.

5. The division of special education shall audit the reports required in section 273.5 to determine that all children in the area who have been identified as requiring special education have received the appropriate special education instructional and support services, and to verify the proper identification of pupils in the area who will require special education instructional services during the school year in which the report is filed. The division shall certify to the state comptroller the correct total enrollment of each school district in the state, determined by applying the appropriate pupil weighting index to each child requiring special education, as certified by the directors of special education in each area.

6. The division may conduct an evaluation of the special education instructional program or special education support services being provided by an area education agency, school district, or private agency, pursuant to sections 273.1 to 273.9 and this chapter, to determine if the program or service is adequate and proper to meet the needs of the child; if the child is benefiting from the program or service; if the costs are in proportion to the educational benefits being received; and if there are any improvements that can be made in the program or service. A written report of the evaluation shall be sent to the area education agency, school district, or private agency evaluated and to the president of the senate and speaker of the house of representatives of the general assembly.

7. Commencing with the school year beginning July 1, 1976, costs of special education instructional programs include the costs of purchase of transportation equipment to meet the special needs of children requiring special education and for each school year subsequent to the school year beginning July 1, 1977 the inclusion of such costs shall be subject to the approval of the state board of public instruction. Unencumbered funds generated for special education instructional programs for the school year beginning July 1, 1975 and for the school year beginning July 1, 1976 shall not be expended for such purposes unless approved by the department based upon applications received by the department prior to January 1, 1978 and approved prior to April 1, 1978.

Commencing with the school year beginning July 1, 1976, a school district may expend an amount not to exceed two-sevenths of an amount equal to the district cost of a school district for the costs of regular classroom instruction of a child certified under the special education weighting plan in subsection 1, paragraph "b", as a handicapped pupil who is enrolled in a special class, but who receives part of his or her instruction in a regular classroom. Unencumbered funds generated for special education instructional programs for the school year beginning July 1, 1975 and for the school year beginning July 1, 1976 shall not be expended for such purpose.

Commencing with the school year beginning July 1, 1975, funds generated for special education instructional programs under this chapter and chapter 442 shall not be expended for modifications of school buildings to make them accessible to children requiring special education. Unencumbered funds generated for special education instructional programs for the school years beginning July 1, 1975 and July 1, 1976, shall not be expended for such purpose unless approved by the department of public instruction based upon applications received by the department prior to January 1, 1978 and approved prior to April 1, 1978.

(83 Acts, ch 3, § 2) HF 133

Subsection 1, paragraph d amended

CHAPTER 282

SCHOOL ATTENDANCE AND TUITION

282.1 School age — nonresidents. Persons between five and twenty-one years of age are of school age. A board may establish and maintain evening schools for residents of the corporation regardless of age and for which no tuition need be charged. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board and boards discontinuing grades under section 282.7, subsection 1, shall be charged tuition as provided in section 282.24, subsection 2.

(83 Acts, ch 31, § 3) HF 344

Amended

282.7 Attending in another corporation — payment.

1. The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having approved school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the approved school district designated for attendance. Only entire grades may be discontinued under this subsection and if a grade is discontinued, all higher grades in that district shall also be discontinued. A school district that has discontinued one or more grades under this subsection has complied with the requirements of section 275.1 relating to the maintenance of twelve grades. A pupil who graduates from another school district under this subsection shall receive a diploma from the receiving district. Tuition shall be paid by the resident district as provided in section 282.24, subsection 2. The agreement shall provide for tuition, transportation, and authority and liability of the affected boards.

2. A school district which does not have an area vocational technical high school or program, established and approved under chapter 258, may permit a resident child to attend school in another district which has such a school or program. The child shall meet the entrance requirements of the school district which has the area school or program. Tuition at the maximum rate prescribed in section 282.24, subsection 1, but not transportation, for such a child shall be paid by the resident district as required in section 282.20.

(83 Acts, ch 31, § 4, 5) HF 344

Subsection 1 struck and rewritten

Subsection 2 amended

282.17 High school outside home district. Repealed by 83 Acts, ch 31, § 8. (HF 344)

282.20 Tuition fees — payment. The school corporation in which the student resides shall pay from the general fund to the secretary of the corporation in which the student is permitted to enroll, a tuition fee as prescribed in section 282.24.

It shall be unlawful for any school district to rebate to any pupils or their parents, directly or indirectly, any portion of the tuition collected or to be collected or to authorize or permit such pupils to receive at the expense of the district, directly or indirectly, any special compensation, benefit, privilege, or other thing of value that is not and cannot legally be made available to all other pupils enrolled in its schools. Any superintendent or board members responsible for such unlawful act shall each be personally liable to a fine of not to exceed one hundred dollars. Action to recover such penalty or action to enjoin such unlawful act may be instituted by the board of any school district or by a taxpayer in any school district.

On or before February 15 and June 15 of each year the secretary of the creditor district shall deliver to the secretary of the debtor district an itemized statement of such tuition fees.

(83 Acts, ch 31, § 6) HF 344

Unnumbered paragraph 1 amended

282.24 Tuition fees established.

1. There is established a maximum tuition fee that may be charged for elementary and high school students residing within another school district or corporation except students attending school in another district under section 282.7, subsection 1. That fee is the district cost per pupil of the receiving district as computed in section 442.9, subsection 1, paragraph "a".

A school corporation which owns facilities used as attendance centers for students shall maintain an itemized statement of the appraised value of all buildings owned by the school corporation. Beginning July 1, 1976, the appraisal shall be updated at least one time every five years.

The superintendent of public instruction shall, after July 1 but before September 1 of each year, notify every school in the state, affected by this section, what the computed maximum tuition rate shall be for the ensuing year.

This subsection does not prevent the corporation or district in which the student resides from paying a tuition in excess of the maximum computed tuition rates, if the actual per pupil cost of the preceding year so warrants, but the receiving district or corporation shall not demand more than the maximum rate.

2. The tuition fee charged by the board of directors for pupils attending school in the district under section 282.7, subsection 1, shall not exceed the actual cost of providing the educational program for either the high school or the junior high school in that district and shall not be less than the maximum tuition rate in that district. For the purpose of this section, high school means a school which commences with either grade nine or grade ten as determined by the board of directors of the district, and junior high school means the remaining grades commencing with grade seven.

(83 Acts, ch 31, § 7) HF 344

Subsection 1 amended

NEW subsection 2

CHAPTER 296

INDEBTEDNESS OF SCHOOL CORPORATIONS

296.2 Petition for election. Before indebtedness can be contracted in excess of one and one-quarter percent of the assessed value of the taxable property, a petition signed by a number equal to twenty-five percent of those voting at the last election of school officials shall be filed with the president of the board of directors, asking that an election be called, stating the amount of bonds proposed to be issued and the purpose or purposes for which the indebtedness is to be created, and that the purpose or purposes cannot be accomplished within the limit of one and one-quarter percent of the valuation. The petition may request the calling of an election on one or more propositions and a proposition may include one or more purposes.

(83 Acts, ch 90, § 18) HF 377

Amended

296.3 Election called. The president of the board of directors on receipt of a petition under section 296.2, within ten days after considering the suggestions of the area education agency board, or the board of a district contiguous to the district for which the petition is received, under section 297.7, subsection 3, shall call a meeting of the board which shall call the election, fixing the time of the election, which may be at the time and place of holding the regular school election, unless the board determines by unanimous vote that the proposition or propositions requested by a petition to be submitted at an election are grossly unrealistic or contrary to the needs of the school district. The decision of the board may be appealed to the state board of public instruction as provided in chapter 290. The president shall notify the county commissioner of elections of the time of the election.

(83 Acts, ch 90, § 19) HF 377

Amended

CHAPTER 297

SCHOOLHOUSES AND SCHOOLHOUSE SITES

297.36 Loan agreements. In order to make immediately available proceeds of the schoolhouse tax which has been approved by the voters as provided in section 278.1, subsection 7, the board of directors may, with or without notice, borrow money and enter into loan agreements in anticipation of the collection of the tax with a bank, investment banker, trust company, insurance company, or insurance group.

By resolution, the board shall provide for an annual levy which is within the limits of the tax approved by the voters to pay for the amount of the principal and interest due each year until maturity. The board shall file a certified copy of the resolution with the auditor of each county in which the district is located. The filing of the resolution with the auditor shall make it the duty of the auditor to annually levy the amount certified for collection until funds are realized to repay the loan and interest on the loan in full.

The loan must mature within the period of time authorized by the voters and shall bear interest at a rate which does not exceed the limits provided under chapter 74A. A loan agreement entered into pursuant to this section shall be in a form as the board of directors shall by resolution provide and the loan shall be payable as to both principal and interest from the proceeds of the annual levy of the voted tax pursuant to section 278.1, subsection 7, or so much thereof as will be sufficient to pay the loan and interest on the loan.

The proceeds of a loan must be deposited in a fund which is separate from other district funds. Warrants paid from this fund must be for purposes authorized by the voters as provided in section 278.1, subsection 7.

This section does not limit the authority of the board of directors to levy the full amount of the voted tax, but if and to whatever extent the tax is levied in any year in excess of the amount of principal and interest falling due in that year under a loan agreement, the first available proceeds, to an amount sufficient to meet maturing installments of principal and interest under the loan agreement, shall be paid into the sinking fund for the loan before the taxes are otherwise made available to the school corporation for other school purposes, and the amount required to be annually set aside to pay principal of and interest on the money borrowed under the loan agreement shall constitute a first charge upon the proceeds of the special voted tax, which tax shall be pledged to pay the loan and the interest on the loan.

This section is supplemental and in addition to existing statutory authority to finance the purposes specified in section 278.1, subsection 7, and for the borrowing of money and execution of loan agreements in connection with that section and subsection, and is not subject to any other law. The fact that a school corporation may have previously borrowed money and entered into loan agreements under authority of this section does not prevent the school corporation from borrowing additional money and entering into further loan agreements if the aggregate of the amount payable under all of the loan agreements does not exceed the proceeds of the voted tax.

(83 Acts, ch 185, § 8, 62) HF 562

NEW section

CHAPTER 299

COMPULSORY EDUCATION

299.1 Attendance requirement. A person having control of a child over seven and under sixteen years of age, in proper physical and mental condition to attend school, shall cause the child to attend some public school for at least one hundred twenty days in each school year, commencing with the first week of school after the first day of September, unless the board of school directors establishes a later date, which date shall not be later than the first Monday in December.

The board may, by resolution, require attendance for the entire time when the schools are in session in any school year.

In lieu of such attendance such child may attend upon equivalent instruction by a certified teacher elsewhere.

(83 Acts, ch 17, § 2, 4) HF 120

Effective April 15, 1983

Unnumbered paragraph 1 amended

CHAPTER 302

SCHOOL FUNDS

302.3 Temporary fund. Repealed by 83 Acts, ch 185, § 61, 62. (HF 562)

Effective July 1, 1984; for law in effect until that date see Code 1983

302.4 Division and appraisalment. The board of supervisors may, as preliminary to a sale, authorize the trustees of a township, where the sixteenth section or land selected in lieu of the sixteenth section has not been sold, to lay out the section into tracts as in their judgment will be for the best interests of the permanent school fund, conforming, as far as the interests of the fund will permit, to the legal subdivisions of the United States surveys, and appraise each tract at what they believe to be its true value, and certify to the board the divisions and appraisements made by them. The division and appraisalment shall be approved or disapproved by the board at its first meeting after the report, and in case it disapproves, it may at

once order another division and appraisal. If the board of supervisors approves, the county auditor shall make and keep a record of the division, appraisal, and approval; but school lands shall not be sold for less than the appraised value per acre, except as provided. A member of the board of supervisors, county auditor, township trustee, or a person who was engaged in the division and appraisal of the land, shall not be directly or indirectly interested in the purchase of the land; and any sale made, where the parties have an interest in the land, shall be void.

(83 Acts, ch 185, § 9, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.6 Sale without appraisal. When the county board of supervisors has once offered for sale school lands held under section 302.1 in compliance with the requirements of this chapter, and they remain unsold, and it is unable to obtain the appraised value of the lands, and in the opinion of the board, it is for the best interests of the permanent school fund that the lands be sold for a less price, it may instruct the auditor to transmit to the secretary of state a certified copy of its proceedings in relation to the order of sale of the land and subsequent proceedings in relation to the sale, including the action of the township trustees, and the price per acre at which the land had been appraised. The secretary of state shall submit the transcript of the proceedings to the executive council; and if it approves of a sale at a less sum, it shall certify the approval to the auditor of the county from which the transcript came. The certificate shall be recorded in the minute book of the board of supervisors, and the land may again be offered and sold to the highest bidder without again being appraised, after notice given as in case of sales in the first instance.

(83 Acts, ch 185, § 10, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.8 Sale of lands bid in. When lands have been sold and bid in by the state in behalf of the permanent school fund upon a judgment in favor of the fund, the land may be sold in the same manner as other school lands, and when lands have been conveyed to the counties in which they are situated for the use of the permanent school fund, instead of to the state, the conveyance is valid and binding, and upon proper certificates of sales patents shall issue in the same manner as if the conveyances had been properly made to the state.

(83 Acts, ch 185, § 11, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.9 Cash or collateral security. When, in the judgment of the board of supervisors, school lands held under section 302.1 are of such a character that a sale upon partial credit would be unsafe or incompatible with the interest of the permanent school fund, and especially in the case of timbered lands, the board of supervisors may require the entire purchase money in advance; or if the board sells the land upon a partial credit, it shall require good collateral security for the payment of the part upon which credit is given.

(83 Acts, ch 185, § 12, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.10 Uniform interest date. If money is due to the permanent school fund, either for loans or deferred payments of the purchase price of land sold, the interest shall be made payable on the first day of January each year, and if the debtor fails to pay the interest within six months of the date it is due, the entire amount of both principal and interest shall become due, and the county auditor shall report the nonpayment to the county attorney, who shall immediately commence action

for the collection of the amount reported as due. This section is a part of a contract made by virtue of this chapter, whether expressed in the contract or not.

(83 Acts, ch 185, § 13, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.11 School fund accounts — audit of losses. The state comptroller shall keep the permanent school fund accounts in books provided for that purpose, separate and distinct from the revenue books. The auditor of state shall audit losses to the permanent school or university fund caused by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the fund. The auditor of state shall adopt rules for those officers as necessary to ascertain the losses.

(83 Acts, ch 185, § 14, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.15 Management. Property and money accrued to the permanent school fund shall be managed and controlled by the treasurer of state, and the treasurer of state is responsible for the safekeeping, investment, reinvestment and disbursement of the property and money.

(83 Acts, ch 185, § 15, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.16 Actions. Actions for and in behalf of the fund may be brought in the name of the state for the use of the permanent school fund, by the attorney general.

(83 Acts, ch 185, § 16, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.17 Liability of county. Each county is liable for losses upon loans of the permanent school fund, principal or interest, made in the county, unless the loss was not occasioned by reason of a default of its officers or by taking insufficient or imperfect securities, or from a failure to bid at an execution sale the full amount of the judgment and costs.

(83 Acts, ch 185, § 17, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.19 Loans. The permanent school fund shall be loaned out or invested by the treasurer of state as it comes into the treasurer's hands.

(83 Acts, ch 185, § 18, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.24 Redemption of prior lien — assignments. Repealed by 83 Acts, ch 185, § 61, 62. (HF 562)

Effective July 1, 1984; for law in effect until that date see Code 1983

302.28 Statute of limitation. Lapse of time is not a bar to action to recover a part of the permanent school fund, and it does not prevent the introduction of evidence in an action, except as provided in sections 614.29 to 614.38.

(83 Acts, ch 185, § 19, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.29 Payments. Payments to the permanent school fund upon contracts, or loans of another nature, shall be made to the treasurer of the county upon a certificate from the auditor showing the amount due.

(83 Acts, ch 185, § 20, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.31 School fund account — settlement. The auditor shall also keep, in books to be provided for that purpose, an account to be known as the permanent school fund account, in which a memorandum of the notes, mortgages, bonds, money, and assets which may come into the auditor's hands and those of the treasurer shall be entered, and separate accounts of principal and interest be kept. The county treasurer shall also keep an account and record of all school funds coming into the county treasurer's hands. Settlements of the account shall be made with the board of supervisors at its January and June sessions, and the settlements shall be recorded with the proceedings of the board.

(83 Acts, ch 185, § 21, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.32 Notice of default. When outstanding contracts for the sale of school lands or notes for money of the permanent school fund loaned, or interest on the permanent school fund, are due, the auditor shall by mail at once notify the debtor to make payment within three months.

(83 Acts, ch 185, § 22, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.34 Bid at execution sale. Upon a sale of lands under an execution founded upon a permanent school fund claim or right, the auditor shall bid a sum required by the interests of the fund, and, if struck off to the state, it shall be thereafter treated the same as other lands belonging to the fund.

(83 Acts, ch 185, § 23, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.35 Sheriff's deed to state. When lands have been bid in by the county for the state under foreclosure of permanent school fund mortgages and the time for redemption has expired, a sheriff's deed shall be issued to the state for the use and benefit of the permanent school fund. The county auditor shall file the deed for record in the office of the county recorder who shall record the deed without fee and return it when recorded to the county auditor who shall then forward it to the secretary of state. The secretary of state shall record the deed and then file it with the state comptroller.

(83 Acts, ch 185, § 24, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.38 Excess — loss borne by county. An excess over the amount of the unpaid portion of the principal, costs of foreclosure, and interest on the principal, shall inure to the county and be credited to the general county fund. If the lands are sold for a less amount than the unpaid portion of the principal, the loss shall be sustained by the county, and the board of supervisors shall at once order the amount of the loss transferred from the general fund of the county to the permanent school fund account.

(83 Acts, ch 185, § 25, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.39 Report as to sales — interest. County auditors shall report, on or before January 1 of each year, to the state comptroller the amount of the sales and resales made during the previous year, of the sixteenth section, five-hundred-thousand-acre grant, escheat estates, and lands taken under foreclosure of permanent school fund mortgages, and the state comptroller shall charge them to the counties with interest from the date of such sale or resale to January 1, at the rate of three percent per annum.

(83 Acts, ch 185, § 26, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.42 Report as to rents. By January 1 of each year, county auditors shall report to the state comptroller the amount of rents collected during the preceding year on unsold school lands and lands taken under foreclosure of permanent school mortgages then in the hands of the county treasurer, and the state comptroller shall include the amount reported in the semiannual apportionment of interest.

(83 Acts, ch 185, § 27, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

302.44 Penalty against county auditor. *A county auditor failing or neglecting to perform required duties under this chapter, is liable to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of supervisors. The judgment shall be entered against the party and the party's bondsmen, and the proceeds shall be paid to the treasurer of state for distribution under section 602.8107.*

(83 Acts, ch 186, § 10066, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

302.44 Penalty against county auditor. A county auditor failing or neglecting to perform required duties under this chapter, is liable to a penalty of not less than one hundred nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of supervisors. The judgment shall be entered against the party and the party's bondsmen, and the proceeds shall be paid to the treasurer of state for deposit in the general fund of the state.

(83 Acts, ch 185, § 28, 62) HF 562

Effective July 1, 1984

Prevalis over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

CHAPTER 303

HISTORICAL DEPARTMENT

303.41 Eligibility and purpose. A land use district shall not be created under this division unless it is an area of contiguous territory encompassing twenty thousand acres or more of predominately rural and agricultural land owned by a single entity which has within its general boundaries at least seven platted villages which are not incorporated as municipalities at the time the district is organized. The eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality.

(83 Acts, ch 108, § 1) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.42 Petition. Ten percent or more of the qualified voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the qualified voters of the proposed district the question of whether the territory within the boundaries of the proposed district shall be organized as a land use district under this division. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

1. An intelligible description of the boundaries of the territory to be embraced in the district.

2. The name of the proposed district.
3. That the territory to be embraced in the district has a distinctive historical and cultural character which might be preserved by the establishment of the district.
4. That the public welfare will be promoted by the establishment of the district.
5. The signatures of the petitioners.

(83 Acts, ch 108, § 2) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.43 Jurisdiction — decisions — records. The board of supervisors of the county in which the proposed land use district, or its major portion, is located has jurisdiction of the proceedings on the petition as provided in this division and the decision of a majority of the members of that board is necessary for adoption. All orders of the board made under this division shall be spread at length upon the records of the proceedings of the board of supervisors, but need not be published.

(83 Acts, ch 108, § 3) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.44 Date and notice of hearing. The board of supervisors to whom the petition is addressed, at its next regular, special, or adjourned meeting, shall set the time and place when it will meet for a hearing upon the petition, and direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and prayer of the petition, by publication of a notice once each week for two consecutive weeks in some newspaper of general circulation published in the proposed district. The last publication shall not be less than twenty days prior to the date set for the hearing of the petition. If no such newspaper is published in the proposed district, then notice shall be by posting at least five copies of the notice in the proposed district at least twenty days before the hearing. Proof of giving notice shall be made by affidavit of the publisher or affidavit of the person who posted the notices, and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state the following:

1. That a petition has been filed with the county auditor of that county for establishment of a proposed land use district and the name of the proposed district.
2. An intelligible description of the boundaries of the territory to be embraced in the district.
3. The date, hour, and place where the petition will come on for hearing before the board of supervisors of the named county.
4. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition, and at the hearing all interested persons shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding it.

(83 Acts, ch 108, § 4) SF 85

NEW section

303.45 Hearing of petition and order. The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 303.44 and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of it. Proof of the residence and qualification of the petitioners as qualified voters shall be made by affidavit or otherwise as the board may direct. The board shall consider the boundaries of the proposed land use district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The boundaries of a proposed district shall not be changed to include property not included in the original petition and published notice until the owner of that

property is given notice as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding them. The board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall enter an order fixing the boundaries of the proposed district and directing that an election be held for the purpose of submitting to the qualified voters residing within the boundaries of the proposed district the question of organization and establishment of the proposed land use district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries, and specify the polling places which in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established.

(83 Acts, ch 108, § 5) SF 85
NEW section

303.46 Notice of election. In its order for the election the board of supervisors shall direct the county auditor to cause notice of the election to be given by posting at least five copies of the notice in public places in the proposed district at least twenty days before the date of election and by publication of the notice once each week for three consecutive weeks in some newspaper of general circulation published in the proposed district, or, if no such newspaper is published within the proposed district, then in such a newspaper published in the county in which the major part of the proposed district is located. The last publication is to be at least twenty days prior to the date of election. The notice shall state the time and place of holding the election and the hours when the polls will be open and closed, the purpose of the election, with the name of the proposed district and a description of its boundaries, and shall set forth briefly the limits of each voting precinct and the location of the polling places. Proof of posting and publication shall be made in the manner provided in section 303.44 and filed with the county auditor.

(83 Acts, ch 108, § 6) SF 85
NEW section

303.47 Election. Each qualified voter residing within the proposed district may cast a ballot at the election and a person shall not vote in any precinct but that of the person's residence. Ballots at the election shall be in substantially the following form:

For Land Use District _____

Against Land Use District _____

The election shall be conducted in the manner provided by law for general elections and the ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers, in the county whose board of supervisors is vested with jurisdiction of the proceedings, as provided by law in the case of ballots cast for county officers, except as modified by this division. The board of supervisors shall cause a statement of the result of the election to be spread upon the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district is in favor of the proposed district, the proposed district becomes an organized district under this division.

(83 Acts, ch 108, § 7) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68
NEW section

303.48 Expenses and costs of election. All expenses incurred in carrying out sections 303.41 through 303.47, including the costs of the election, as determined by the board of supervisors, shall be paid by the county whose board is vested with jurisdiction of the proceedings.

(83 Acts, ch 108, § 8) SF 85
NEW section

303.49 Election of trustees — term of office.

1. If the proposition to establish a land use district carries, a special election shall be called by the board of supervisors of the county which conducted the election to form the district. This special election shall be held within the newly created district at a single polling place designated by the county auditor not more than ninety days after the organization of the land use district. The election shall be held for the purpose of electing the initial seven members of the board of trustees of the land use district. The county auditor shall cause notice of the election to be posted and published, and shall perform all other acts with reference to the election, and conduct it in like manner, as nearly as may be, as provided in this division for the election on the question of establishing the district. Each trustee must be a United States citizen not less than eighteen years of age and a resident of the district. Each qualified elector at the election may write in upon the ballot the names of not more than seven persons whom the elector desires for trustees and may cast not more than one vote for each of the seven persons. The seven persons receiving the highest number of votes cast shall constitute the first board of trustees of the district.

2. Following the initial special election, an annual election shall be held on the second Tuesday of each September at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. Notice of the election shall be posted by the county auditor at seven or more public places within the district at least two weeks prior to the date of the election. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in this division for the election on the question of establishing the district. Each qualified elector at the election may write upon the ballot the name of one person whom the elector desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

3. Vacancies in the office of trustee of a land use district shall be filled by the remaining members of the board of trustees for the period extending to the second Tuesday in September at which time the qualified electors of the district shall elect a new trustee to fill the vacancy for the unexpired term. Expenses incurred in carrying out the annual elections of trustees shall be paid for by the land use district.

4. When the initial board of trustees is elected under this section the trustees shall be ranked in the order of votes received from highest to lowest. Any ties shall be resolved by a random method. The last ranked trustee shall receive an initial term expiring at the next annual election for trustees in September, the sixth and fifth ranked trustees receive an initial term expiring one year later, the fourth ranked trustee receives an initial term expiring two years after that election, the third and second ranked trustees receive initial terms expiring three years after that election, and the first ranked trustee shall receive an initial term expiring four years after that election.

(83 Acts, ch 108, § 9) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.50 Trustee's bond. Each trustee shall, before entering upon the duties of office, execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in a form and amount as that board of supervisors may determine, and file the bond with the county auditor of that county.

(83 Acts, ch 108, § 10) SF 85

NEW section

303.51 Land use district to be a body corporate. A land use district organized under this division is a body corporate and politic, with the name and style under which it was organized, and by that name and style may sue and be sued,

contract and be contracted with, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter it, and exercise all the powers conferred in this chapter.

The courts of this state shall take judicial notice of the existence of a land use district organized under this division.

(83 Acts, ch 108, § 11) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.52 Board of trustees — powers.

1. The trustees elected under this division constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, clerk, and a treasurer from their own number and, from without their own number, employees of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district.

3. The board of trustees shall provide for the manner in which the land use plan shall be established and enforced and amended, supplemented, or changed. However, a plan shall not become effective until after a public hearing on it, at which parties in interest and citizens of the district shall have an opportunity to be heard. At least fifteen days notice of the time and place of the hearing shall be published in a newspaper of general circulation within the district giving the time, date, and location of the public hearing.

4. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer such compensation as it deems fit, not exceeding that authorized for the members of the board, from the funds of the district.

(83 Acts, ch 108, § 12) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.53 Changes and amendments. The land use plan, once established, may be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against a change signed by the owners of twenty percent or more either of the area included in the proposed change, or of the immediately adjacent area and within five hundred feet of the boundaries, the amendment shall not become effective except by the favorable vote of at least eighty percent of all of the members of the board of trustees.

(83 Acts, ch 108, § 13) SF 85

NEW section

303.54 Board of adjustment. The board of trustees of the district shall provide for the appointment of a board of adjustment, shall provide that the board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the land use plan which are in harmony with its general purpose and intent and in accordance with the general or specific rules of the plan, and provide that a property owner aggrieved by the action of the board of trustees in the adoption of the land use plan may petition the board of adjustment directly to modify regulations and restrictions as applied to those property owners.

(83 Acts, ch 108, § 14) SF 85
NEW section

303.55 Membership of board. The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant.

(83 Acts, ch 108, § 15) SF 85
NEW section

303.56 Rules. The board of adjustment shall adopt rules in accordance with any regulation or ordinance adopted by the board of trustees pursuant to this division. Meetings of the board of adjustment shall be held at the call of the chairperson and at other times as the board determines. The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(83 Acts, ch 108, § 16) SF 85
Reference in this section to "this division" means sections 303.41 through 303.68
NEW section

303.57 Appeals to board. Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the board of adjustment a notice of appeal specifying the grounds of the appeal.

(83 Acts, ch 108, § 17) SF 85
NEW section

303.58 Powers of board. The board of adjustment may:

1. Hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this division or of any ordinance adopted pursuant to it.
2. Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under the ordinance.
3. Authorize upon appeal, in specific cases, a variance from the terms of the land use plan which are not contrary to the public interest, where owing to special conditions a literal enforcement of the plan would result in unnecessary hardship, and so that the spirit of the plan shall be observed and substantial justice done.

(83 Acts, ch 108, § 18) SF 85
Reference in this section to "this division" means sections 303.41 through 303.68
NEW section

303.59 Decision. In exercising its powers the board may, in conformity with this division, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the board of trustees from whom the appeal is taken.

(83 Acts, ch 108, § 19) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.60 Vote required. The concurring vote of three members of the board is necessary to reverse an order, requirement, decision, or determination, or to decide in favor of the applicant on a matter upon which it is required to pass under an ordinance or to effect a variation in the land use plan.

(83 Acts, ch 108, § 20) SF 85

NEW section

303.61 Petition to court. Any persons, jointly or severally, aggrieved by a decision of the board of adjustment under this division, or any taxpayer, may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

(83 Acts, ch 108, § 21) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.62 Review by court. Upon the presentation of a petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment prescribing the time within which a return must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(83 Acts, ch 108, § 22) SF 85

NEW section

303.63 Trial to court. If upon the hearing, which shall be tried de novo, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as it directs and report the evidence to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(83 Acts, ch 108, § 23) SF 85

NEW section

303.64 Precedence. All issues in any proceedings under sections 303.41 through 303.63 have preference over all other civil actions and proceedings.

(83 Acts, ch 108, § 24) SF 85

NEW section

303.65 Restraining order. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is used in violation of this division or of an ordinance or other regulation made under this division, the board of trustees, in addition to other remedies, may institute

any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in, or about the premises.

(83 Acts, ch 108, § 25) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.66 Taxes — power to levy — tax sales. The board of trustees of a land use district organized under this division may by ordinance levy annually for the purpose of paying the administrative costs of the district, a tax upon real property within the territorial limits of the land use district not exceeding twenty-seven cents per thousand dollars of the adjusted taxable valuation of the property for the preceding fiscal year. The tax shall not be levied on any tillable farmland, pastureland, timber pasture or forestland located within the district.

Taxes levied by the board shall be certified on or before the first day of March to the county auditor of each county where any of the property included within the territorial limits of the land use district is located, and shall be placed upon the tax list for the current year, and the county treasurer shall collect the taxes in the same manner as other taxes, and when delinquent they shall draw the same interest and penalties. All taxes so levied and collected shall be paid over to the treasurer of the district.

Sales for delinquent taxes owing to a land use district shall be made at the same time and in the same manner as sales are made for other taxes, and all provisions of the law of this state relating to the sale of property for delinquent taxes are applicable, so far as may be, to such sales.

(83 Acts, ch 108, § 26) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

303.67 Records and disbursements. The clerk of each land use district shall keep a record of all the proceedings and actions of the trustees. The treasurer shall receive, collect, and disburse all moneys belonging to the district, and no claim shall be paid or disbursement made until it has been duly audited by the board of trustees.

(83 Acts, ch 108, § 27) SF 85

NEW section

303.68 Conflict with other regulations. If the regulations made under this division impose higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this division govern. If any other statute or local ordinance or regulation imposes higher standards than are required by the regulations made under authority of this division, that statute or ordinance or regulation governs. If a regulation proposed or made under this division relates to a structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of a river or stream, prior approval of the department of water, air and waste management is required to establish, amend, supplement, change, or modify the regulation or to grant a variation or exception from it.

(83 Acts, ch 108, § 28) SF 85

Reference in this section to "this division" means sections 303.41 through 303.68

NEW section

CHAPTER 303A

STATE LIBRARY DEPARTMENT

303A.4 Duties of commission. The state library commission shall:

1. Adopt and enforce rules necessary for the exercise of the powers and duties granted by this chapter and proper administration of the department.
2. Adopt rules providing penalties for injuring, defacing, destroying, or losing books or materials under the control of the commission. All fines, penalties, and

forfeitures imposed by these rules may be recovered in an action in the name of the state and deposited in the general fund.

3. Develop and adopt plans to provide more adequate library service to all residents of the state.

4. Charge no fee for the use of libraries under its control or for the circulation of material from libraries, except where transportation costs are incurred in making materials available to users. The costs may be used as a basis for determining a fee to be charged to users.

5. Give advice and counsel to all public libraries in the state and to all political subdivisions which may propose to establish libraries.

6. Print lists and circulars of information and instruction as it deems necessary.

7. Continuously survey the needs of libraries throughout the state, and ascertain the requirements for additional libraries and for improving existing libraries to provide adequate service to all residents of the state.

8. Obtain from all public libraries reports showing the condition, growth, development and manner of conducting these libraries and at its discretion, obtain reports from other libraries in the state and make these facts known to the citizens of Iowa.

9. Encourage the implementation of the county library law, and of countywide library service through contracts with the boards of supervisors.

(83 Acts, ch 101, § 65) SF 136

Subsection 9 amended

CHAPTER 306

ESTABLISHMENT, ALTERATION, AND VACATION OF HIGHWAYS

306.9 Diagonal roads — restoring existing roads. It is declared to be the policy of the state of Iowa that relocation of primary highways through cultivated land shall be avoided to the maximum extent possible. Whenever the volume of traffic for which the road is designed or other conditions require such relocation, diagonal routes shall be avoided wherever feasible and prudent alternatives exist.

It is further declared that improvement of two-lane roads shall utilize the existing right of way unless alignment or other conditions make changes imperative, and when any two-lane road is expanded to a four-lane road, the normal procedure would be that the additional right of way would be contiguous to the existing right of way unless relocated for compelling reasons. This policy shall not apply to any highway project for which the corridor has been approved by the state department of transportation and which corridor has been finalized by September 1, 1977.

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.

Unless otherwise required by the federal law or regulation, it is also the policy of this state that road use tax fund moneys shall be used to rehabilitate or reconstruct existing roads, streets, and bridges using substantially existing right of way. This paragraph shall not apply where additional right of way is needed for the construction or completion of designated interstate or city routes and highway bypasses.

(83 Acts, ch 198, § 14) SF 531

NEW unnumbered paragraph 3

306.15 Purchase and sale of property. If as to any one or more properties affected by the proposed vacation and closing of a secondary road, it appears to the board of supervisors to be in the interest of economy or public welfare, the board may purchase or condemn, by proceeding as this chapter provides, the entire properties, and make payment for them. After the road has been vacated and closed the board shall sell the properties at the best attainable price.

(83 Acts, ch 123, § 107, 209) HF 628

Amended

306.27 Changes for safety, economy, and utility. The state department of transportation as to primary roads and the boards of supervisors as to secondary roads on their own motion may change the course of any part of any road or stream, watercourse or dry run and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or to straighten a road, or to cut off dangerous corners, turns or intersections on the highway, or to widen a road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse or dry run upon the highway. The department shall conduct its proceedings in the manner and form prescribed in chapter 472, and the board of supervisors shall use the form prescribed in sections 306.28 to 306.37. Changes are subject to chapter 455B.

(83 Acts, ch 101, § 66) SF 136

Amended

CHAPTER 306A

CONTROLLED-ACCESS HIGHWAYS

306A.10 Notice to relocate — costs paid. Whenever the state department of transportation, 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 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 authority having jurisdiction over the project or as determined in condemnation proceedings for such purposes and may be paid from participating federal aid or other funds.

(83 Acts, ch 198, § 15) SF 531

Amended

306A.12 Limitation on reimbursement. A reimbursement shall not be made for any relocation or removal of facilities under this chapter unless funds to be provided by federal aid amount to at least eighty-five percent of each reimbursement payment.

(83 Acts, ch 198, § 16) SF 531

Amended

CHAPTER 306B

OUTDOOR ADVERTISING ALONG INTERSTATE HIGHWAYS

306B.5 Removal after notice. Any advertising device erected or maintained adjacent to any interstate system after May 21, 1965 in violation of this chapter or the rules promulgated by the department, is a public nuisance and may be removed by the department upon thirty days' notice, by certified mail, to the owner of the advertising device and to the owner of the land on which the advertising device is located. The notice shall require such owners to remove the advertising device if it is prohibited or to cause it to conform to this chapter or rules promulgated by the department if it is not prohibited.

1. If the owner of the advertising device or the landowner fails to act within thirty days as required in the notice, the advertising device shall be deemed to be forfeited and the department may enter upon the land and remove the advertising device. Such entry after notice, shall not be deemed a trespass and the department may be aided by injunction to abate the nuisance and to insure peaceful entry.

2. The cost of removal, including fees, costs and expenses which arise out of an action brought by the department to insure peaceful entry and removal, may be assessed against the owner of the advertising device. If the owner of the advertising device fails to pay the fees, costs, or expenses within thirty days after assessment, the department may commence an action to collect the fees, costs, or expenses, which when collected shall be paid into the "highway beautification fund."

(83 Acts, ch 186, § 10067, 10201) SF 495
Subsection 2 amended

CHAPTER 306C

IOWA JUNKYARD BEAUTIFICATION AND BILLBOARD CONTROL

306C.19 Removal after notice. Any advertising device erected or maintained after July 1, 1972, in violation of this division or the rules promulgated by the department, is a public nuisance and may be removed by the department upon thirty days' notice, by certified mail, to the owner of the advertising device and to the owner of the land on which the advertising device is located. The notice shall require such owners to remove the advertising device if it is prohibited, or to cause it to conform to this division or rules promulgated by the department if it is not prohibited.

1. If the owner of the advertising device or the landowner fails to act within thirty days as required in the notice, the advertising device shall be deemed to be forfeited and the department may enter upon the land and remove the advertising device. Such entry after notice, shall not be deemed a trespass and the department may be aided by injunction to abate the nuisance and to insure peaceful entry.

2. The cost of removal, including fees, costs and expenses which arise out of an action brought by the department to insure peaceful entry and removal, may be assessed against the owner of the advertising device. If the owner of the advertising device fails to pay the fees, costs, or expenses within thirty days after assessment, the department may commence an action to collect the fees, costs, or expenses, which when collected shall be paid into the "highway beautification fund".

(83 Acts, ch 186, § 10068, 10201) SF 495
Subsection 2 amended

CHAPTER 307

DEPARTMENT OF TRANSPORTATION

307.3 Transportation commission. There is created a state transportation commission which shall consist of seven members, not more than four of whom shall be from the same political party. The governor shall appoint the members of the state transportation commission for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate.

The commission shall meet in May of each year for the purpose of electing one of its members as chairperson.

(83 Acts, ch 101, § 67) SF 136
Unnumbered paragraph 2 amended

307.10 Duties of commission. The commission shall:

1. Develop and co-ordinate a comprehensive transportation policy for the state not later than January 1, 1975, which shall be submitted to the general assembly for its approval, and develop a comprehensive transportation plan by January 1, 1976, to be submitted to the governor and the general assembly, and to update the transportation policy and plan annually.
2. Promote the co-ordinated and efficient use of all available modes of transportation for the benefit of the state and its citizens including, but not limited to, the designation and development of multimodal public transfer facilities if carriers or other private businesses fail to develop such facilities.
3. Identify the needs for city, county and regional transportation facilities and services in the state and develop programs appropriate to meet these needs.
4. Identify methods of improving transportation safety in the state and develop programs appropriate to meet these needs.
5. Adopt rules in accordance with chapter 17A as it deems necessary to transact its business and for the administration and exercise of its powers and duties.
6. Approve the budget of the department as prepared by the director, prior to submission of the budget to the governor and the general assembly.
7. Approve the reorganization of any existing divisions within the department.
8. Consider the energy and environmental issues in transportation development.
9. Enter into such contracts and agreements as provided in this chapter.
10. Provide for the receipt or disbursement of federal funds allocated to the state and its political subdivisions for transportation purposes.

The commission may adopt, after consultation with the department of water, air and waste management and the department of public safety, rules to enforce the rules regarding transportation of hazardous wastes promulgated by the water, air and waste management commission of the department of water, air and waste management under section 455B.412. The department and the division of the highway safety patrol of the department of public safety shall carry out the rules through the use of the director's powers and duties of enforcement and inspection.

(83 Acts, ch 9, § 1, 8) SF 207

Effective April 1, 1983

Subsection 5 amended

307.30 Federal tax compliance. The department shall adopt rules under chapter 17A to provide for certification of federal heavy vehicle use tax collections required by the Surface Transportation Assistance Act of 1982.

(83 Acts, ch 9, § 2, 8) SF 207

Effective April 1, 1983

NEW section

307.36 Project needs — retention of property. It is the intent of the general assembly that not later than July 1, 1992, the state department of transportation shall dispose of all right-of-way owned by the department and not needed for projects. In determining need, the department shall consider both its five-year program requirements and its long-range, statewide corridor development needs. In determining need based upon long-range, statewide corridor development, the department shall give careful consideration to economically depressed urban areas not served directly by the national system of interstate and defense highways.

(83 Acts, ch 114, § 1) SF 145

NEW section

CHAPTER 307B

RAILWAY FINANCE AUTHORITY

307B.7 Powers of the authority. The authority shall have all powers necessary for the performance of its purposes and duties, including but not limited to, the power to:

1. Have perpetual succession as a public authority.
2. Adopt rules under chapter 17A for the regulation of its affairs and to carry out its duties and responsibilities. The authority is an agency as that term is defined in chapter 17A and is subject to the provisions of chapter 17A.
3. Sue and be sued in its own name.
4. Exercise the power of eminent domain.
5. Acquire railway facilities, whether located within Iowa or a contiguous state, directly or through an agent, by purchase, lease, lease-purchase, gift, devise or otherwise. The authority shall not submit a bid to acquire a railway facility if any railroad company or person is negotiating for the facility's purchase and if the railroad company's or person's offer exceeds the net salvage value set by the trustee by at least fifteen percent and the offer is for a segment which originates and terminates at the intersection of another railroad mainline or is for a segment which connects to a mainline if the facility is a branchline. However, even if a railroad company or person is negotiating for a facility's purchase, the authority may submit a bid for the acquisition of the railway facility upon approval of a resolution by the state transportation commission stating that the best interests of the state and the transportation needs thereof might not be served by the railroad company's or person's offer or negotiation. However, the commission shall not adopt such a resolution if the competing railroad corporation or person files with the state department of transportation an enforceable undertaking to operate the facility for a period of five years after its purchase.
6. Determine the location of and select any railway facility to be provided financial assistance under this chapter and acquire, construct, reconstruct, renovate, rehabilitate, improve, extend, replace, maintain, repair and lease the facility, and to enter into contracts for any of these purposes.
7. Enter into contracts, including partnership agreements, with any person for the ownership, operation, management or use of a railway facility. Provisions shall be made in any contract or partnership agreement entered into by the authority that any additional jobs which may result from the ownership, operation, management, or use of a railway facility shall be offered, when practicable, to qualified former employees of the Milwaukee Road or Rock Island railroad companies.
8. Designate an agent to perform its powers under subsections 6 and 7.
9. The authority may sell or convey any of the railway facilities upon terms and considerations acceptable to the governing board.
10. Issue obligations for any of its purposes and refund the obligations, all as provided for in this chapter. However, the total principal amount of obligations outstanding at any one time shall not exceed two hundred million dollars.
11. Invest or deposit moneys of the authority, subject to any agreement with bondholders or noteholders, in any manner determined by the authority, notwithstanding the provisions of chapter 452, 453 or 454.
12. Fix, revise, charge and collect rates, rents, fees and charges for the use of any railway facility or any portion of a facility that is owned or financially assisted by the authority alone or in any other association with any other person and contract with any person in respect to a facility.
13. Mortgage all or any portion of its railway facilities, whether then owned or thereafter acquired, in connection with the financing of the particular railway facility or any portion of the facility.
14. Extend financial assistance for the purpose of providing for project costs.

Make interest-free loans for rehabilitation of railway tracks, roadbeds, or trestles to persons which have repaid in part the original loan from the authority which was made for the purpose of the acquisition or rehabilitation of railway tracks, roadbeds, or trestles. However, an interest-free loan to a person shall not exceed the amount repaid of the original loan made to that person and one-half of the amount of the interest-free loan repaid to the authority shall be credited to the railroad assistance fund established in section 327H.18.

15. Extend financial assistance to refund, retire, or refinance obligations, including obligations running to the federal government, mortgages or advances issued, made or given for the project cost of a railway facility which costs were incurred for railway facilities undertaken and completed prior to or after May 20, 1980 when the governing board finds that this financial assistance is in the public interest.

16. Have and alter a corporate seal.

17. Receive and accept from any person or governmental agency loans, guarantees or grants for or in aid of project costs and receive and accept grants, gifts and other contributions from any source.

18. Own a railway facility under this chapter alone, in partnership, or in any other association with any person if necessary or beneficial to preserve part of a railway system, upon the determination, after consultation with the department, that the railway facility is necessary or beneficial to the railway system, to be relinquished to nonauthority ownership or operation as soon as economically practicable.

19. Temporarily operate a railway facility under this chapter if sufficient need exists or there is an emergency situation as determined by a majority of the board.

20. Pledge any funds contained in the special railroad facility fund to the payment of and as security for obligations issued under this chapter.

21. Invest moneys in the special railroad facility fund in general or limited partnership interests in a partnership formed to purchase, renovate, and operate a railway facility.

22. Serve as a general or limited partner in a partnership formed to purchase, renovate, and operate a railway facility.

23. Enter into agreements with persons to develop, equip, furnish, or otherwise develop and operate railway facilities, and make provision in the agreements for railway facilities and governmental actions, as authorized by this chapter and other laws.

24. Enter into appropriate arrangements and agreements with a governmental agency for the taking or the providing by that governmental agency of a governmental action.

25. Acquire property interests subject to the limitations on purchases provided in section 307B.7, subsection 5, in rail lines to ensure continued rail use and preserve abandoned rail lines for future railroad use.

(83 Acts, ch 121, § 1) SF 499

Partnership for acquiring right-of-way; use of funds; lien; 83 Acts, ch 198, § 32 (SF 531)

NEW subsection 25

307B.24 Acquisition of abandoned right-of-way. A railway corporation which has received authorization to abandon a rail line must offer the line to the authority for sale prior to removing the track materials. The corporation shall state a reasonable price for:

1. The corporation's right, title, and interest in the right-of-way, track materials, and rail facilities.

2. An exclusive, transferable, five-year option to purchase all of the corporation's right, title, and interest in the right-of-way, track materials, and rail facilities.

The authority may waive the requirements of this section.

The authority shall have thirty days in which to accept or decline the corporation's offer for all or any part of the rail line. If the authority fails to accept the offer within thirty days of the offer, the corporation may dispose of the property.

If the authority accepts all or any part of the offer, the corporation shall execute the proper documents upon delivery of the purchase price which shall not be later than ninety days from the date of the offer.

(83 Acts, ch 121, § 2) SF 499

NEW section

CHAPTER 308

MISSISSIPPI RIVER PARKWAY

308.4 Transportation commission authority.

1. The state transportation commission shall make such investigations, surveys, studies and plans in connection with any proposed national parkway or parkway development as it shall deem necessary or desirable to determine if the proposed development is under the terms of the Act of the United States Congress applicable to such parkway or any regulations under such Act and is advantageous to the state. Such parkway development may be any portion of the proposed parkway which is proposed to be constructed as a project under such Act.

2. The state transportation commission, with the co-operation of the state conservation commission, shall also:

a. Plan, designate and establish the exact routing of the great river road, utilizing the general guidelines established in Title 23, United States Code.

b. Acquire all rights in land necessary for reconstruction or relocation of any portions of the great river road where such reconstruction or relocation is imperative for the safety of the traveling public, or where the condition or location of existing segments of the highway is not in keeping with the intent of the provisions of this chapter. Acquisitions of such rights in land shall be by gift, purchase, exchange, or by instituting and maintaining proceedings for condemnation. Gift, purchase, exchange, and condemnation shall include acquisition of a scenic easement. A scenic easement acquired under this chapter shall constitute easements both at law and in equity, and all legal and equitable remedies, including prohibitory and mandatory injunctions, shall be available to protect and enforce the state's interest in such scenic easements. Any scenic easement acquired under this chapter shall be deemed to be appurtenant to the roadway to which it is adjacent or from which it is visible. The duties created by any scenic easement acquired under this chapter shall be binding upon and enforceable against the original owner of the land subject to the scenic easement and his heirs, successors, and assigns in perpetuity, unless the instrument creating the scenic easement expressly provides for a lesser duration. A court shall not declare any scenic easement acquired under this chapter to have been extinguished or to have become unenforceable by virtue of changed conditions or frustration of purpose.

c. Accept and administer state, federal and any other public or private funds made available for the acquisition of rights in land and for the planning and construction or reconstruction of any segment of the great river road and any state and federal funds for the maintenance of that part of the great river road constituting the right of way.

3. There is appropriated from the general fund of the state to the state department of transportation the sum of one hundred thousand dollars for each fiscal year beginning July 1, 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 co-operation 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.

(83 Acts, ch 198, § 17) SF 531
 Subsection 3 amended

CHAPTER 309

SECONDARY ROADS

309.10 Use of farm-to-market road fund. Notwithstanding the provisions of section 310.4, if the board of supervisors of a county does not plan to utilize its farm-to-market road fund allocation for the succeeding calendar year for farm-to-market projects, the board may annually, by stipulation in the secondary road construction program and secondary road budget submitted to the department in accordance with sections 309.22 and 309.93, determine an amount of the unobligated portion of their allocation, up to a maximum of fifty percent of their anticipated total annual allocation, for the construction and reconstruction of local secondary roads. However, moneys from the farm-to-market road fund shall not be so used if the moneys are needed to match federal funds available for farm-to-market road projects.

A county shall not use farm-to-market road funds as described in this section unless the total funds that the county transferred or provided during the prior fiscal year pursuant to section 331.429, subsection 1, paragraphs "a", "b", and "d", are at least seventy-five percent of the maximum funds the county could have transferred in the prior fiscal year pursuant to section 331.429, subsection 1, paragraphs "a" and "b".

(83 Acts, ch 123, § 108, 208, 209) HF 628

In first year following effective date, counties shall compare amounts raised under § 331.425 [7a(1,3,4)], Code 1983, with amounts which could have been raised under § 331.422(12,13), Code 1983

Unnumbered paragraph 2 amended

309.18 Compensation. The board shall fix the compensation of the engineers.

Said engineers shall, in the performance of their duties, work under the directions of said board and shall give bonds for the faithful performance of their duties in a sum not less than two thousand nor more than five thousand dollars, to be approved by the board.

(83 Acts, ch 123, § 109, 209) HF 628

Unnumbered paragraph 1 amended

309.52 Duty of treasurer. The treasurer shall sell the certificates in accordance with chapter 75, or if unable to sell the certificates for par plus accrued interest, the treasurer may apply the certificates at par plus accrued interest in payment of any warrants duly authorized and issued for secondary road work.

(83 Acts, ch 123, § 110, 209) HF 628

Amended

CHAPTER 310

FARM-TO-MARKET ROADS

310.1 Definitions. As used in this chapter, the following words, terms or phrases shall be construed or defined as follows:

1. "County's allotment of road use tax fund" or "allotment of road use tax fund" means that part of the road use tax fund allotted to any county by the treasurer of state from the portion of the state road use tax fund which the treasurer has credited to the secondary road fund of the counties.

2. "Federal aid" or "federal aid secondary road fund" shall mean funds allotted to the state of Iowa by the federal government to aid in the construction of secondary roads and which funds must be matched with funds under the control of the department.

3. "Department" means the state department of transportation.

(83 Acts, ch 123, § 111, 209) HF 628

Subsection 1 amended

CHAPTER 311

SECONDARY ROAD ASSESSMENT DISTRICTS

311.7 Improvement by private funds. The owner or a group of owners of not less than seventy-five percent of the lands adjacent to, or abutting upon any secondary road may, on or before October 1 of any year, petition the board of supervisors of their county for the improving by graveling or other suitable surfacing, of such road, and for the assessment of not less than fifty percent (or such greater portion as may be provided in said petition) of the cost of such improving, by graveling or other suitable surfacing, to the lands adjacent to, or abutting upon such road. When the petition has been filed, the board of supervisors shall review the project proposed by the petition and may accept or reject the proposed project. If the board of supervisors accepts the petition, the board shall include such project in the secondary road construction program of said county and establish a priority for the completion of such project.

The board of supervisors shall proceed with the construction and completion of said project in accordance with its assigned priority and under the same procedure as is prescribed generally for the improvement of secondary roads by assessment, and shall, as the law may provide, establish a special secondary road assessment district and assess against the lands included therein not less than fifty percent (or such greater portion as may be provided in said petition) of the engineer's estimated cost of the surfacing of the road or roads included in said project against all the lands adjacent to or abutting upon the said road or roads.

Provided, that should the owner or owners of all the lands included in any special secondary road assessment district under this section, subscribe and deposit with the county treasurer an amount not less than fifty percent (or such greater portion as may be provided in said petition) of the engineer's estimated cost of the surfacing of the road or roads included in said project, the board of supervisors shall not establish such special assessment district as herein provided, but shall accept the said donations in lieu of an assessment, and shall otherwise proceed to the improvement of said road or roads as herein provided.

Provided further, that the total expenditure of secondary road funds of the county in any year for or on account of special secondary road assessment district projects on local secondary roads under this section shall not exceed the total secondary road funds legally expendable for construction on local secondary roads in said county in said year, and the expenditure of secondary road funds of the county, in any township in any three-year period, for or on account of special secondary road assessment district projects on local secondary roads under this section, shall not exceed said township's pro rata share, on the area basis, of the total secondary road funds legally expendable for construction on local secondary roads in said county in said three-year period, unless there be a township or townships from which there are no petitions filed during the first two years of said three-year period.

If the engineer's estimated cost of the grading, bridges, culverts, and draining of the road proposed to be included in any special assessment district project under this section, exceeds an average of seven thousand dollars per mile, the board of supervisors of said county may appeal to the state transportation commission as to

whether the county shall proceed with the construction of said project. The state transportation commission shall hold a hearing on said matter, at a time and place of which the petitioners and the county board shall be duly notified, and shall have an opportunity to appear and be heard. After such hearing the state transportation commission shall determine whether the county shall proceed with said project, which determination shall be final.

Upon the completion of such road or roads, and the satisfaction of all claims in relation thereto, any balance then remaining of the funds provided by the sponsors shall be returned to them according to their respective interests, providing all guarantees made by such sponsors have been fulfilled.

Any road or roads so improved by graveling or other suitable surfacing under this section shall be maintained by the county.

(83 Acts, ch 123, § 112, 209) HF 628

Unnumbered paragraph 7 amended

311.19 Assessment ten dollars or less. Assessments of ten dollars or less against any tract of land, and assessments against lands owned by the state, county or city, shall be due and payable from the date of levy by the board of supervisors, or in the case of any appeal, from the date of final confirmation of the levy by the court.

In case of assessments on lands owned by the county, the assessments shall be paid from the county treasury. In case of assessments on lands owned by the state, the assessments shall be paid out of any funds in the state treasury not otherwise appropriated. In case of assessments on lands owned by a city, the assessments shall be paid from any available city fund.

(83 Acts, ch 123, § 113, 209) HF 628

Unnumbered paragraph 2 amended

311.23 Payment of construction costs. The total cost of any secondary road assessment district project shall in the first instance be paid out of the county treasury. Any assessments which are paid in cash and in anticipation of which assessments no certificates have been issued, shall be transferred to the county treasury.

If no special assessment certificates are issued and sold on account of any particular secondary road assessment district, the special assessments on lands included in that district, and the interest on the assessments when collected, shall be transferred to the secondary road fund of the county. If certificates are issued and sold in anticipation of the special assessments levied on a district, the proceeds of the certificates shall be credited to the county treasury. In that event, the special assessments in anticipation of which certificates have been issued, and the interest on the assessments shall, when collected, be used to retire the certificates.

(83 Acts, ch 123, § 114, 209) HF 628

Amended

311.29 Sale of certificates. Upon the signing of each of the certificates by the chairperson of the board, the certificates shall be delivered to the county treasurer, who shall countersign them and who shall be responsible for them on the treasurer's bond. The treasurer may apply the certificates in payment of warrants duly authorized and issued for surfacing the roads within the district, or the treasurer may sell the certificates for the best attainable price and for not less than par, plus accrued interest. The certificates shall be retired in the order of their numbering.

(83 Acts, ch 123, § 115, 209) HF 628

Amended

CHAPTER 312

ROAD USE TAX FUND

312.2 Allocations from fund. The treasurer of the state shall, on the first day of each month, credit all road use tax funds which have been received by the treasurer, to the primary road fund, the secondary road fund of the counties, the farm-to-market road fund, and the street construction fund of cities in the following manner and amounts:

1. To the primary road fund, forty-five percent.
2. To the secondary road fund of the counties, twenty-eight percent.
3. To the farm-to-market road fund, nine percent.
4. To the street construction fund of the cities, eighteen percent.
5. The treasurer of state shall before making the above allotments credit annually to the highway grade crossing safety fund the sum of 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.
6. The treasurer of state shall before making the allotments provided for in this section credit monthly to the state department of transportation funds sufficient in amount to pay the costs of purchasing certificate of title and registration forms, and supplies and materials and for the cost of prison labor used in manufacturing motor vehicle registration plates, decalcomania emblems, and validation stickers at the prison industries.
7. The treasurer of state, before making the allotments provided in this section, shall credit annually to the primary road fund from the road use tax fund the sum of seven million one hundred thousand dollars.
8. The treasurer of state, before making any allotments to counties under this section, shall reduce the allotment to any county for the secondary road fund by an amount by which the total funds that the county transferred or provided during the prior fiscal year under section 331.429, subsection 1, paragraphs "a," "b," and "d," are less than seventy-five percent of the maximum funds that the county could have transferred in the prior fiscal year under section 331.429, subsection 1, paragraphs "a" and "b". Funds remaining in the secondary road fund of the counties due to a reduction of allocations to counties for failure to maintain a minimum local tax effort shall be reallocated to counties that are not reduced under this subsection pursuant to the allocation provisions of section 312.3, subsection 1, based upon the needs and area of the county. Information necessary to make allocations under this subsection shall be provided by the state department of transportation or the state comptroller upon request by the treasurer of state.

9. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the Iowa department of soil conservation two hundred fifty thousand dollars from the road use tax funds. The department of soil conservation, in co-operation with the state department of transportation and the Iowa conservation commission shall expend 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 on the highway. However, the funds shall not be expended for wind erosion control barriers located more than forty rods from the highway.

10. The treasurer of state shall establish a great river road fund and at the request of the state department of transportation, shall credit monthly before making the allotments provided for in this section, sufficient funds to cover the anticipated costs, as identified by the state department of transportation, for the acquisition and construction of eligible highway-associated project components. Reimbursement to this fund shall be made as necessary from the funds appropriated in section 308.4. In no case shall the unreimbursed allotment to the great river road fund exceed one million dollars less the cumulative sum as annually appropriated in section 308.4. Reimbursed funds shall be reallocated in accordance with the provisions of this section.

11. The treasurer of the state shall establish a revolving fund for use by affected jurisdictions for great river road projects. Funds shall be advanced at the request of the state department of transportation to affected jurisdictions as noninterest loans and shall be utilized for the construction of eligible great river road highway projects. Funds may be advanced from either the primary road fund or the farm-to-market road fund. The amount advanced and not reimbursed shall not exceed five million dollars at any one time from either the primary road fund or the farm-to-market road fund, nor shall the amount advanced and not reimbursed at any one time from all funds combined exceed seven million five hundred thousand dollars.

Funds advanced as provided by this subsection shall be administered by the state department of transportation. The department shall require repayment of the advanced funds within ten years. The treasurer of state shall, upon the request of the state department of transportation, transfer a portion of the affected local jurisdiction's allocation sufficient to meet repayment requirements if the terms of the individual agreements are not complied with.

12. The treasurer of state, before making the allotments provided in this section, shall credit annually to the primary road fund from the road use tax fund the sum of five thousand dollars to be used by the state department of transportation for payment of expenses authorized under section 306.6, subsection 2. The expense allowance shall be in accordance with the established expense reimbursement policy for employees of the state department of transportation. All unobligated funds shall at the end of each fiscal year revert to the road use tax fund.

13. The treasurer of state, before making the other allotments provided for in this section, shall credit annually to the primary road fund from the road use tax fund the sum of four million four hundred thousand dollars and to the farm-to-market road fund from the road use tax fund the sum of one million five hundred thousand dollars for partial compensation of allowing trucks to operate on the roads of this state as provided in section 321.463.

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.

(83 Acts, ch 198, § 18, 19, 20) SF 531

Exception to subsection 5 for credit to the highway railroad grade crossing surface repair fund; 83 Acts, ch 198,

Subsections 5 and 9 amended

NEW subsection 14

(83 Acts, ch 123, § 116, 208, 209) HF 628

In first year following effective date, counties shall compare amounts raised under § 331.425, [7a (1, 3, 4)], Code 1983, with amounts which could have been raised under § 331.422 (12, 13), Code 1983

Subsection 8 amended

CHAPTER 313

IMPROVEMENT OF PRIMARY ROADS

313.28 Temporary primary road detours. When the department, for the purpose of establishing, constructing or maintaining any primary road, determines that any secondary road or portion thereof is necessary for a detour or haul road, the department, after consultation with the county board of supervisors having jurisdiction of the route, shall by order temporarily designate the secondary road or portion thereof as a temporary primary road detour or as a temporary primary road haul road, and the department shall maintain the same as a primary road until it shall revoke the temporary designation order. Prior to use of a secondary road as a primary haul road or detour, the department shall designate a representative to inspect the secondary road with the county engineer to determine and note the condition of the road.

Prior to revoking the designation, the department shall:

1. Restore the secondary road or portion thereof to as good condition as it was prior to its designation as a temporary primary road, or
2. Determine such amount as will adequately compensate the county exercising exclusive or concurrent jurisdiction over the secondary road or portion thereof for excessive traffic upon the secondary road or portion thereof during the period of its designation as a temporary primary road. The department shall certify the amount determined to the state comptroller. The comptroller shall credit the amount to the county.
3. If on examination of the route, it is determined that the road can be restored to its original condition only by reconstruction, the department shall cause plans to be drawn, award the necessary contracts for work and proceed to reconstruct and make payments for in the same manner as is prescribed for primary construction projects.

(83 Acts, ch 123, § 117, 209) HF 628

Subsection 2 amended

CHAPTER 316

RELOCATION OF PERSONS DISPLACED BY HIGHWAYS

316.14 Funding. Payments and expenditures under this chapter are incident to and arise out of the construction, maintenance, and supervision of public highways and streets, and, in the case of any federal-aid highway project, may be made by the department from the primary road fund and funds made available by the federal government for the purpose of carrying out this chapter. Payments made under section 316.10 may be made from the primary road fund in case of a primary road project only, and in other cases may be made from appropriate funds under control of a political subdivision.

(83 Acts, ch 123, § 118, 209) HF 628

Amended

CHAPTER 317

WEEDS

317.3 Weed commissioner. The board of supervisors of each county shall annually appoint a county weed commissioner who may be a person otherwise employed by the county and who is familiar with the various types of weeds and the recognized methods for their control and elimination. The county weed commissioner's appointment shall be effective as of March 1 and shall continue for a term of one year unless the commissioner is removed from office as provided for by law. The county weed commissioner may, with the approval of the board of supervisors, appoint a deputy or the number of deputies necessary to carry out the purposes of this chapter. The name and address of the person appointed as county weed commissioner shall be certified to the county auditor and to the secretary of agriculture within ten days of the appointment. The board of supervisors shall fix the compensation of the county weed commissioner and deputies. In addition to compensation, the commissioner and deputies shall be paid their necessary travel expenses.

The board of supervisors shall prescribe the time of year the weed commissioner shall perform the powers and duties of county weed commissioner under this chapter which may be during that time of year when noxious weeds can effectively be killed. Compensation shall be for the period of actual work only although a weed commissioner assigned other duties not related to weed eradication may receive an annual salary. The board of supervisors shall likewise determine whether employment shall be by hour, day or month and the rate of pay for the employment time.

(83 Acts, ch 123, § 119, 209) HF 628
Unnumbered paragraph 1 amended

317.4 Direction and control. As used in this chapter, "commissioner" means the county weed commissioner or the commissioner's deputy within each county. Each commissioner, subject to direction and control by the county board of supervisors, shall supervise the control and destruction of all noxious weeds in the county, including those growing within the limits of cities, within the confines of abandoned cemeteries, and along streets and highways unless otherwise provided. A commissioner may enter upon any land in the county at any time for the performance of the commissioner's duties, and shall hire the labor and equipment necessary subject to the approval of the board of supervisors.

(83 Acts, ch 123, § 120, 209) HF 628
Amended

317.16 Failure to comply. In case of a substantial failure to comply by the date prescribed in any order of destruction of weeds made pursuant to this chapter, the weed commissioner or the deputies shall, subsequent to the time after service of the notice provided for in section 317.6 enter upon the land and cause the weeds to be destroyed. The actual cost and expense of cutting, burning or otherwise destroying the weeds, the cost of serving notice and special meetings or proceedings, if any, shall be paid by the county and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21.

(83 Acts, ch 123, § 121, 209) HF 628
Amended

317.18 Order for destruction on roads. The board of supervisors shall order all weeds other than noxious weeds, on all county trunk and local county roads and between the fence lines to be cut, burned or otherwise destroyed to prevent seed production, either upon its own motion or upon receipt of written notice requesting

the action from any residents of the township in which the roads are located, or any person regularly using the roads. The order shall define the roads along which weeds are required to be cut, burned or otherwise destroyed and shall require the weeds to be cut, burned or otherwise destroyed within thirty days after the publication of the order in the official newspapers of the county. If the adjoining owner fails to cut, burn or otherwise destroy the weeds as required in the order, the county commissioner shall have them cut, burned or otherwise destroyed and the cost shall be paid by the county and recovered later by an assessment against the adjoining property owners as provided in section 317.21.

(83 Acts, ch 123, § 122, 209) HF 628

Amended

317.19 Road clearing appropriation. The board of supervisors may appropriate moneys to be used for the purposes of cutting, burning, or otherwise destroying all weeds, second, or undergrowth brush between the fence rows on the county trunk roads and local county roads in time to prevent reseeding.

The board of supervisors may purchase or hire necessary equipment or contract with the adjoining landowner to carry out the purposes of this section.

(83 Acts, ch 123, § 123, 209) HF 628

NEW section

317.20 Equipment and materials — use on private property. The board of supervisors may appropriate moneys for the purpose of purchasing weed eradicating equipment and materials to carry out the duties of the commissioner for use on all lands in the county, public or private, and for the payment of the necessary expenses and compensation of the commissioner, and the commissioner's deputies, if any. When equipment or materials so purchased are used on private property within the corporate limits of cities by the commissioner, the cost of materials used and an amount to be fixed by the board of supervisors for the use of the equipment shall be returned by the county treasurer upon the collection of the special assessment taxed against the property. In the certification to the county treasurer by the county auditor this apportionment shall be designated along with the special tax assessed under section 317.21. The equipment and its use are subject to the authorization and direction of the county board of supervisors.

(83 Acts, ch 123, § 124, 209) HF 628

NEW section

CHAPTER 321

MOTOR VEHICLES AND LAW OF THE ROAD

321.1 Definitions of words and phrases. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them.

1. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. "Vehicle" does not include:

- a. Any device moved by human power.
- b. Any device used exclusively upon stationary rails or tracks.
- c. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.
- d. Any steering axle, dolly, auxiliary axle or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

2. "Motor vehicle" means every vehicle which is self-propelled but not including

vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires, but not operated upon rails. The terms "car," "new car," "used car" or "automobile" shall be synonymous with the term "motor vehicle."

"Used motor vehicle" or "second-hand motor vehicle" means any motor vehicle of a type subject to registration under the laws of this state which have been sold "at retail" as defined in chapter 322 and previously registered in this or any other state.

"New car" means every motor vehicle designed primarily for carrying nine passengers or less, excluding motorcycles, which has not been sold "at retail" as defined in chapter 322.

"Used car" means every motor vehicle designed primarily for carrying nine passengers or less, excluding motorcycles, which has been sold "at retail" as defined in chapter 322 and previously registered in this state or any other state.

3. a. "Motorcycle" means every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground including a motor scooter but excluding a tractor and a motorized bicycle.

b. "Motorized bicycle" or "motor bicycle" means a motor vehicle having a saddle or a seat for the use of a rider and designed to travel on not more than three wheels in contact with the ground, with an engine having a displacement no greater than fifty cubic centimeters and not capable of operating at a speed in excess of twenty-five miles per hour on level ground unassisted by human power.

4. "Motor truck" means every motor vehicle designed primarily for carrying livestock, merchandise, freight of any kind, or over nine persons as passengers.

5. "Light delivery truck," "panel delivery truck" or "pickup" means any motor vehicle designed to carry merchandise or freight of any kind, not to exceed two thousand pounds.

6. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

7. "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

8. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

9. "Trailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

10. "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Wherever the word "trailer" is used in this chapter, same shall be construed to also include "semitrailer."

A "semitrailer" shall be considered in this chapter separately from its power unit.

11. "Trailer coach" means either a trailer or semitrailer designed for carrying persons.

12. "Specially constructed vehicle" means every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

13. "Reconstructed vehicle" means every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

14. "Essential parts" mean all integral and body parts of a vehicle of a type

required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

15. "*Foreign vehicle*" means every vehicle of a type required to be registered hereunder brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

16. "*Implement of husbandry*" means every vehicle which is designed for agricultural purposes and exclusively used, except as herein otherwise provided, by the owner thereof in the conduct of his agricultural operations. Implements of husbandry shall also include:

a. Portable livestock loading chutes without regard to whether such chutes are used by the owner in the conduct of his agricultural operations, provided, that such chutes are not used as a vehicle on the highway for the purpose of transporting property.

b. Any vehicle which is principally designed for agricultural purposes and which is moved during daylight hours by a person either:

(1) From a place at which the vehicles are manufactured, fabricated, repaired, or sold to a farm site or a retail seller or from a retail seller to a farm site;

(2) To a place at which the vehicles are manufactured, fabricated, repaired, or sold to a farm site or a retail seller or from a retail seller from a farm site; or

(3) From one farm site to another farm site. For the purpose of this subsection the term "farm site" means a place or location at which vehicles principally designed for agricultural purposes are used or intended to be used in agricultural operations or for the purpose of exhibiting, demonstrating, testing, or experimenting with the same, provided, however, that said place or location shall not be deemed a "farm site" if the movement of said vehicle, from or to the place at which vehicles principally designed for agricultural purposes are manufactured, fabricated, repaired, or sold at retail, exceeds a distance of fifty miles.

Notwithstanding the other provisions of this subsection any vehicle covered thereby if it otherwise qualifies may be registered as special mobile equipment, or operated or moved under the provisions of sections 321.57 to 321.63, if the person in whose name such vehicle is to be registered or to whom a special plate or plates are to be issued elects to do so and under such circumstances the provisions of this subsection shall not be applicable to such vehicle, nor shall such vehicle be required to comply with the provisions of sections 321.384 to 321.429, when such vehicle is moved during daylight hours, provided however, the provisions of section 321.383, shall remain applicable to such vehicle.

All self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary off-road usage, and used exclusively for the application of plant food materials, agricultural limestone or agricultural chemicals, and not specifically designed or intended for transportation of agricultural limestone and such chemicals and materials. Such machinery shall be operated in compliance with section 321.463.

17. "*Special mobile equipment*" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including trailers and bulk spreaders which are not self-propelled having a gross weight of not more than twelve tons used for the transportation of fertilizers and chemicals used for farm crop production, and other equipment used primarily for the application of fertilizers and chemicals in farm fields or for farm storage, but not including trucks mounted with applicators of such products, road construction or maintenance machinery and ditch-digging apparatus. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this subsection; provided that nothing contained in this section shall be construed to include portable mills or cornshellers mounted upon a motor vehicle or semitrailer.

18. "*Pneumatic tire*" means every tire in which compressed air is designed to support the load.

19. "*Solid tire*" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

20. "*Metal tire*" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

21. "*Where a vehicle is kept*" shall refer to the county of residence of the owner or to the county where the vehicle is mainly kept if said owner is a nonresident of the state.

22. "*Garage*" means every place of business where motor vehicles are received for housing, storage, or repair for compensation.

23. "*Combination*" or "*combination of vehicles*" shall be construed to mean a group consisting of two or more motor vehicles, or a group consisting of a motor vehicle and one or more trailers, semitrailers or vehicles, which are coupled or fastened together for the purpose of being moved on the highways as a unit.

24. "*Gross weight*" shall mean the empty weight of a vehicle plus the maximum load to be carried thereon. The maximum load to be carried by a passenger-carrying vehicle shall be determined by multiplying one hundred fifty pounds by the number of passenger seats carried by such vehicle.

"*Unladen weight*" means the weight of a vehicle or vehicle combination without load.

25. "*Combined gross weight*" shall mean the gross weight of a motor vehicle plus the gross weight of a trailer or semitrailer to be drawn thereby.

26. "*Authorized emergency vehicle*" means vehicles of the fire department, police vehicles, ambulances and emergency vehicles owned by the United States, this state or any subdivision of this state or any municipality therein, and such privately owned ambulances, rescue or disaster vehicles as are designated or authorized by the director of transportation.

27. "*School bus*" means every vehicle operated for the transportation of children to or from school, except vehicles which are: (a) Privately owned and not operated for compensation, (b) Used exclusively in the transportation of the children in the immediate family of the driver, (c) Operated by a municipally or privately owned urban transit company for the transportation of children as part of or in addition to their regularly scheduled service, or (d) Designed to carry not more than nine persons as passengers, either school owned or privately owned, which are used to transport pupils to activity events in which the pupils are participants or used to transport pupils to their homes in case of illness or other emergency situations. The vehicles operated under the provisions of paragraph "d" of this section shall be operated by employees of the school district who are specifically approved by the local superintendent of schools for the assignment.

28. "*Railroad*" means a carrier of persons or property upon cars operated upon stationary rails.

29. "*Railroad train*" means an engine or locomotive with or without cars coupled thereto, operated upon rails.

30. "*Railroad corporation*" means any corporation organized under the laws of this state or any other state for the purpose of operating the railroad within this state.

31. "*Explosives*" mean any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that on ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

32. "*Flammable liquid*" means any liquid which has a flash point of 70 degrees F. or less, as determined by a Tagliabue or equivalent closed cup test device.

33. "*Department*" means the state department of transportation. "*Commission*" means the state transportation commission.

34. "*Director*" means the director of the state department of transportation or his designee.

35. "*Person*" means every natural person, firm, copartnership, association, or corporation. Where the term "person" is used in connection with the registration of a motor vehicle, it shall include any corporation, association, copartnership, company, firm, or other aggregation of individuals which owns or controls such motor vehicle as actual owner, or for the purpose of sale or for renting, whether as agent, salesman, or otherwise.

36. "*Owner*" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of a security agreement with an immediate right of possession vested in the debtor, then such debtor shall be deemed the owner for the purpose of this chapter.

37. "*Nonresident*" means every person who is not a resident of this state.

38. "*Dealer*" means every person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered hereunder and who has an established place of business for such purpose in this state.

39. "*Transporter*" means every person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer.

40. "*Manufacturer*" means every person engaged in the business of fabricating or assembling vehicles of a type required to be registered. It does not include a person who converts, modifies or alters a completed motor vehicle manufactured by another person. It includes a person who uses a completed motor vehicle manufactured by another person to construct a class "B" motor home as defined in section 321.124.

"*Completed motor vehicle*" means a motor vehicle which does not require any additional manufacturing operations to perform its intended function except the addition of readily attachable equipment, components or minor finishing operations.

41. "*Established place of business*" means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

42. "*Operator*" means every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

43. "*Chauffeur*" means any person who operates a motor vehicle, including a school bus, in the transportation of persons for wages, compensation or hire, or any person who operates a truck tractor, road tractor or any motor truck which is required to be registered at a gross weight classification exceeding five tons, or any such motor vehicle exempt from registration which would be within the gross weight classification if not so exempt except when the operation by the owner or operator is occasional and merely incidental to the owner or operator's principal business, is by a volunteer fire fighter operating fire apparatus, or is by a volunteer ambulance or rescue squad attendant operating ambulance or rescue squad apparatus. If a volunteer fire fighter or ambulance or rescue squad operator receives nominal compensation not based upon the value of the services performed, the fire fighter or operator shall be considered to be receiving no compensation and classified as a volunteer.

Subject to the provisions of section 321.179, a farmer or his hired help shall not be deemed a chauffeur, when operating a truck owned by him, and used exclusively in connection with the transportation of his own products or property.

44. "*Driver*" means every person who drives or is in actual physical control of a vehicle.

45. "*Peace officer*" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in section 801.4.

46. "*Local authorities*" mean every county, municipal, and other local board or body having authority to adopt local police regulations under the Constitution and laws of this state.

47. "*Pedestrian*" means any person afoot.

48. "*Street*" or "*highway*" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

49. "*Private road*" or "*driveway*" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

50. "*Roadway*" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

51. "*Sidewalk*" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

52. "*Laned highway*" means a highway the roadway of which is divided into three or more clearly marked lanes for vehicular traffic.

53. "*Through (or thru) highway*" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter or such entrances are controlled by a peace officer or traffic-control signal. The term "arterial" is synonymous with "through" or "thru" when applied to highways of this state.

54. "*Intersection*" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

55. "*Crosswalk*" means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections, or, any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

56. "*Safety zone*" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

57. "*Business district*" means the territory contiguous to and including a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

58. "*Residence district*" means the territory within a city contiguous to and including a highway, not comprising a business, suburban or school district, where forty percent or more of the frontage on such highway for a distance of three hundred feet or more is occupied by dwellings or by dwellings and buildings in use for business.

59. "*School district*" means the territory contiguous to and including a highway for a distance of two hundred feet in either direction from a schoolhouse in a city.

60. "*Suburban district*" means all other parts of a city not included in the business, school or residence districts.

61. The linear measure of the plot of ground upon which the building is located abutting upon the highway shall be deemed "frontage occupied by the building," and the phrase "frontage on such highway for a distance of three hundred feet or more" shall mean the total frontage on both sides of the highway for such distance.

62. "*Official traffic-control devices*" mean all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

63. "Official traffic-control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

64. "Railroad sign" or "signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

65. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.

66. "Right of way" means the privilege of the immediate use of the highway.

67. "Alley" means a thoroughfare laid out, established and platted as such, by constituted authority.

68. a. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons.

b. "Travel trailer" means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight feet in width and its overall length shall not exceed forty feet. Such vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If any such vehicle is used in this state as a place of human habitation for more than ninety consecutive days in one location it shall be classed as a mobile home regardless of the size limitations herein provided.

c. "Fifth-wheel travel trailer" means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed forty feet.

d. "Motor home" means a motor vehicle designed as an integral unit to be used as a conveyance upon the public streets and highways and for use as a temporary or recreational dwelling and having at least four, two of which shall be systems specified in subparagraphs (1), (4) or (5) of this paragraph, of the following permanently installed systems which meet American national standards institute and national fire protection association standards in effect on the date of manufacture:

- (1) Cooking facilities.
- (2) Ice box or mechanical refrigerator.
- (3) Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
- (4) Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
- (5) Heating or air conditioning system or both, separate from the vehicle engine or the vehicle engine electrical system.
- (6) A one hundred ten — one hundred fifteen volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.

69. "Tandem axle" means any two or more consecutive axles whose centers are more than forty inches but not more than eighty-four inches apart.

70. "Guaranteed arrest bond certificate" means any printed, unexpired certificate issued by an automobile club or association to any of its members, or any printed, unexpired certificate issued by an insurance company authorized to write automobile liability insurance within this state, which said certificate is signed by such member or insured and contains a printed statement that such automobile club, association or insurance company and a surety company which is doing business in this state under the provisions of section 515.48, subsection 2, guarantee the appearance of the

person whose signature appears on the certificate and that they will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed two hundred dollars. If such insurance company is itself qualified under the provisions of section 515.48, subsection 2, then it may be its own surety. Bail in this form shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as provided by law.

71. A "*special truck*" means a motor truck not used for hire with a gross weight registration of six through twenty tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in the owner's own farming operation or occasional use for charitable purposes. "Special truck" also means a truck tractor which is modified by removal of a fifth wheel and carries the full load on the motor truck and which by reason of its conversion becomes a motor truck.

72. "*Component part*" means any part of a vehicle, other than a tire, having a component part number.

73. "*Component part number*" means the vehicle identification derivative consisting of numerical and alphabetical designations affixed to a component part by the manufacturer or the department or affixed by, or caused to be affixed by, the owner pursuant to rules promulgated by the department as a means of identifying the component part.

74. "*Vehicle identification number*" or the initials VIN mean the numerical and alphabetical designations affixed to a vehicle or a component part of a vehicle by the manufacturer or the department or affixed by, or caused to be affixed by, the owner pursuant to rules promulgated by the department as a means of identifying the vehicle.

75. "*Demolisher*" means any agency or person whose business is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck or dismantle vehicles.

76. "*Multipurpose vehicle*" means a motor vehicle designed to carry not more than ten people, and constructed either on a truck chassis or with special features for occasional off-road operation.

77. "*Motor vehicle license*" means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to operator, chauffeur, and motorized bicycle licenses and instruction and temporary permits.

78. "*Vehicle rebuilder*" means a person engaged in the business of rebuilding or restoring to operating condition vehicles subject to registration under this chapter, which have been damaged or wrecked.

79. "*Used vehicle parts dealer*" means a person engaged in the business of selling bodies, parts of bodies, frames or component parts of used vehicles subject to registration under this chapter.

80. "*Vehicle salvager*" means a person engaged in the business of scrapping vehicles, dismantling or storing wrecked or damaged vehicles or selling reusable parts of vehicles or storing vehicles not currently registered which vehicles are subject to registration under this chapter.

81. "*Ambulance*" means a motor vehicle which is equipped with life support systems and used to transport sick and injured persons who require emergency medical care to medical facilities.

82. "*Registration year*" means the period of twelve consecutive months beginning on the first day of the month following the month of the birth of the owner of the vehicle for vehicles registered by the county treasurer and the calendar year for vehicles registered by the department or motor trucks and truck tractors with a combined gross weight exceeding five tons which are registered by the county treasurer.

83. "Remanufactured vehicle" means every vehicle of a type required to be registered and having a gross vehicle weight rating of at least thirty thousand pounds that has been disassembled, resulting in the total separation of the major integral parts and which has been reassembled with those parts being replaced with new or rebuilt parts. In every instance, a new diesel engine and all new tires shall be installed and shall carry manufacturers' warranties.

Every vehicle shall include, but not be limited to, new or rebuilt component parts consisting of steering gear, clutch, transmission, differential, engine radiator, engine fan hub, engine starter, alternator, air compressor and cab. For purposes of this subsection, "rebuilt" means the replacement of any element of a component part which appears to limit the serviceability of the part. A minimum of twenty thousand dollars shall be expended on each vehicle and the expense must be verifiable by invoices, work orders, or other documentation as required by the department.

The department may establish equipment requirements and a vehicle inspection procedure for remanufactured vehicles. The department may establish a fee for the inspection of remanufactured vehicles not to exceed one hundred dollars for each vehicle inspected.

(82 Acts, ch 1062, § 1, 2, 38) HF 808

Effective December 1, 1983

Subsection 71 amended

NEW subsection 82

(83 Acts, ch 9, § 3, 8) SF 207

Effective April 1, 1983

NEW subsection 83

(83 Acts, ch 24, § 1, 12) SF 453

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

Subsection 82 amended

321.1A Presumption of residency. For purposes of this chapter there is a rebuttable presumption that a natural person is a resident of this state if any of the following elements exist:

1. The person has filed for a homestead tax exemption on property in this state.
2. The person is a veteran who has filed for a military tax exemption on property in this state.
3. The person is registered to vote in this state.
4. The person enrolls the person's child to be educated in a public elementary or secondary school in this state.
5. The person is receiving public assistance from this state.
6. The person resides or has continuously remained in this state for a period exceeding thirty days except for infrequent or brief absences.
7. The person has accepted employment or engages in any trade, profession, or occupation within this state, except as provided in section 321.55.

"Resident" does not include a person who is attending a college or university in this state, if the person has a domicile in another state and has a valid operator's license and vehicle registration issued by the state of domicile. "Resident" also does not include members of the armed forces that are stationed in Iowa, providing that their vehicles are properly registered in their state of residency.

A corporation, association, partnership, company, firm, or other aggregation of individuals whose principal place of business is located within this state is a resident of this state.

(83 Acts, ch 125, § 1) SF 493

NEW section

321.8 Director to prescribe forms. The director shall prescribe and provide suitable forms of applications, registration cards, certificates of title and all other forms requisite or deemed necessary to carry out the provisions of this chapter and any other laws, the enforcement and administration of which are vested in the

department except manufacturer's or importer's certificates. Manufacturer's and importer's certificates shall be provided by the manufacturer or importer and be in the form prescribed by the department.

(83 Acts, ch 41, § 1) HF 441

Amended

321.19 General exemptions.

1. All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign governments or by officers, boards, or departments of the government of the United States, and by the state, counties, municipalities and other political subdivisions of the state including vehicles used by an urban transit company operated by a municipality and self-propelling vehicles used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality, and all fire trucks, providing they are not owned and operated for a pecuniary profit, are exempted from the payment of the fees imposed by this chapter, except as provided for urban transit companies in subsection 2, but are not exempt from the penalties provided in this chapter. The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official," and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven pointed gold star on a green background followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law and persons enforcing chapter 204 and other laws relating to controlled substances. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit," the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information which may be required by the department. The in-transit card shall be valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

2. "Urban transit company" means any person, firm, corporation, company, or municipality which operates buses or trolley cars or both, primarily upon the streets of cities over well-defined routes between certain termini, for the transportation of passengers for a uniform fare, and which accepts for passengers all who present themselves for transportation without discrimination up to the limit of the capacity of each vehicle. Included are street railways, plants, equipment, property, and rights, used and useful in the transportation of passengers. Motor carriers and interurbans subject to the jurisdiction of the state department of transportation, and taxicabs, are not included.

Any person, firm, corporation, or company operating an urban transit system shall pay to the county treasurer annually as a registration fee for each bus, car, or vehicle used in the transportation of passengers, five dollars, which shall be paid into the city general fund. Any urban transit company operated by a municipality is not required to pay such registration fees. The motor vehicle department, in accordance with subsection 1, shall furnish distinguishing plates for vehicles used by urban transit companies operated by a municipality. No other provision of law providing for the payment of taxes, registration, or license fees for vehicles shall be applicable to any bus, car, or vehicle for the transportation of passengers owned and operated by any urban transit company.

Section 324.3 and chapter 326 are not applicable to urban transit companies or systems.

(83 Acts, ch 40, § 1) HF 444

Subsection 1 amended

321.21 Special mobile equipment plates.

1. A person owning any special mobile equipment may make application to the department, upon the appropriate form furnished by the department, for a certificate containing a general distinguishing number and for one or more special mobile equipment plates. The applicant shall also submit proof of the status of the vehicle as special mobile equipment as may reasonably be required by the department.

2. The department upon granting such application, shall issue to the applicant a certificate containing, but not limited to, the applicant's name and address and the general distinguishing number assigned to the applicant and such other information deemed necessary by the department for proper identification.

3. The department shall also issue special mobile equipment plates as applied for, which shall have displayed the general distinguishing number assigned to the applicant. Each plate or pair of plates issued shall have displayed on the face of the plate the words: Special Mobile Equipment. The fee for each plate or pair of special plates is fifteen dollars.

4. Every special mobile equipment plate issued shall expire at midnight on the thirty-first day of December of the third year following issuance, and a new plate or plates for the ensuing three-year period may be obtained by the person to whom any expired plate was issued upon application to the department and payment of the fee required by law.

5. Every person owning special mobile equipment for which a certificate and a plate or plates have been issued shall keep a written record of the vehicles upon which such special mobile equipment plates are used, which record shall be open to inspection by any police officer or any officer or employee of the department.

6. The certificate and plates issued shall be for purposes of identification only and shall not constitute a registration as required under this chapter. A certificate of title need not be executed when the certificate and plates are issued and a certificate of title need not be delivered to the purchaser or transferee when special mobile equipment is sold or disposed of unless the special mobile equipment is a mobile home.

7. The department may issue temporary written authorization. The temporary authority shall permit the operation of special mobile equipment until permanent identification is issued, except that the temporary authority shall expire after ten days.

(83 Acts, ch 116, § 1) SF 452

Subsection 1 amended

(82 Acts, ch 1032, § 1, 4) SF 2183

Effective December 1, 1983

Subsections 3 and 4 amended

321.23 Titles to specially constructed and foreign vehicles.

1. If the vehicle to be registered is a specially constructed, reconstructed, remanufactured or foreign vehicle, such fact shall be stated in the application. A fee of two dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. With reference to every specially constructed or reconstructed motor vehicle subject to registration the application shall be accompanied by a statement from the department authorizing the motor vehicle to be titled and registered in this state. The department shall cause a physical inspection to be made of all specially constructed or reconstructed motor vehicles, upon application for a certificate of title by the owner, to determine whether the motor vehicle is in a safe operating condition and that the integral component parts are properly identified and that the rightful ownership is established before issuing

the owner the authority to have the motor vehicle registered and titled. With reference to every foreign vehicle which has been registered outside of this state the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or, if vehicle to be registered is from a nontitle state, the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2.

2. Where in the course of operation of a vehicle registered in another state it is desirable to retain registration of said vehicle in such other state, such applicant need not surrender but shall submit for inspection said evidence of such foreign registration and the treasurer upon a proper showing shall register said vehicle in this state but shall not issue a certificate of title for such vehicle.

3. In the event an applicant for registration of a foreign vehicle for which a certificate of title has been issued is able to furnish evidence of being the registered owner of the vehicle to the county treasurer of his residence, although unable to surrender such certificate of title, the county treasurer may issue a registration receipt and plates upon receipt of the required registration fee but shall not issue a certificate of title thereto. Upon surrender of the certificate of title from the foreign state, the county treasurer shall issue a certificate of title to the owner, or person entitled thereto, of such vehicle as provided in this chapter.

4. Any vehicle which does not meet the equipment requirements of this chapter due to the particular use for which it is designed or intended, may be registered by the department upon payment of appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition and will not endanger any person. A person is not required to have a certificate of title to register a vehicle under this subsection. If the owner elects to have a certificate of title issued for the vehicle, a fee of two dollars shall be paid by the person making the application upon issuance of a certificate of title. If the department's inspection reveals that that vehicle may be safely operated only under certain conditions or on certain types of roadways, the department may restrict the registration to limit operation of the vehicle to the appropriate conditions or roadways. This subsection shall not apply to snowmobiles as defined in section 321G.1. Section 321.382 does not apply to a vehicle registered under this subsection which is operated exclusively by a handicapped person who has obtained a special identification device as provided in section 601E.6, providing the special identification device is carried in the vehicle and shown to any peace officer on request.

(83 Acts, ch 9, § 4, 8) SF 207

Effective April 1, 1983

Subsection 1 amended

321.24 Issuance of registration and certificate of title. Upon receipt of the application for title and payment of the required fees for motor vehicle, trailer, or semitrailer, the county treasurer shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home, that taxes are not owing under chapter 135D, issue a certificate of title and, except for a mobile home, a registration receipt and shall file the application, the manufacturer's or importer's certificate, certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, the title number assigned to the owner of the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 423.7, type of fuel used and a description of the vehicle as determined by the department and upon the reverse side a form for notice of transfer of the vehicle. The county treasurer shall maintain in the county record system information contained on the registration receipt. The information shall be accessible by registration number and shall be open for public inspection during reasonable business hours. Copies the department requires shall be sent to the department in the manner

and at the time the department directs. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described including the nature of the security interest, date of notation and name and address of the secured party. The certificate shall bear the seal of the county treasurer, the signature of the county treasurer or that of the deputy county treasurer, and shall provide space for the signature of the owner. The owner shall sign the certificate of title in the space provided with pen and ink upon its receipt. The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty by the owner, for reassignments by a licensed dealer and for application for a new certificate of title by the transferee as provided in this chapter. All certificates of title shall be typewritten or printed by other mechanical means. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears thereon. Otherwise the certificate of title shall be delivered by the county treasurer to the person holding the first security interest or encumbrance as shown in the certificate. The county treasurer shall maintain in the county records system information contained on the certificate of title. The information shall be accessible by title certificate number for a period of three years from the date of notification of cancellation of title or that a new title has been issued as provided in this chapter. Copies the department requires shall be sent to the department in the manner and at the time the department directs. The department shall designate a uniform system of title numbers to indicate the county of issuance.

A vehicle shall be registered for the registration year. A vehicle registered for the first time in this state shall be registered for the remaining unexpired months of the registration year and pay a registration fee prorated for the remaining unexpired months of the registration year.

If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the county treasurer or department may register the vehicle but shall as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(82 Acts, ch 1062, § 3, 38) HF 808

Effective December 1, 1983

NEW unnumbered paragraph 2

321.25 Application for registration and title — cards attached. A vehicle may be operated upon the highways of this state without registration plates for a period of thirty days after the date of delivery of the vehicle to the purchaser from a dealer if a card bearing the words "registration applied for" is attached on the rear of the vehicle. The card shall have plainly stamped or stenciled the registration number of the dealer from whom the vehicle was purchased and the date of delivery of the vehicle. A dealer shall not issue a card to a person known to the dealer to be in possession of registration plates which may be attached to the vehicle. A dealer shall not issue a card unless an application for registration and certificate of title has been made by the purchaser and a receipt issued to the purchaser of the vehicle showing the fee paid by the person making the application. Dealers' records shall indicate the agency to which the fee is sent and the date the fee is sent. The dealer shall forward the application by the purchaser to the county treasurer or state office within fifteen calendar days from the date of delivery of the vehicle.

The department shall, upon request by any dealer, furnish "registration applied for" cards free of charge. Only cards furnished by the department shall be used.

(83 Acts, ch 82, § 1) SF 379
 Unnumbered paragraph 1 amended

321.26. Multiple registration periods and adjustments.

1. There are established twelve registration periods for the registration of vehicles by the county treasurer. Each registration period shall commence on the first day of each calendar month following the month of the birth of the owner of the vehicle and end on the last day of the twelfth month.

2. The county treasurer may adjust the renewal or expiration date of vehicles when deemed necessary to equalize the number of vehicles registered in each twelve-month period or for the administrative efficiency of the county treasurer's office. The adjustment shall be accomplished by delivery of a written notice to the vehicle owner of the adjustment and allowance of a credit for the remaining months of the unused portion of the registration fee, rounded to the nearest whole dollar, which amount shall be deducted from the annual registration fee due at the time of registration. Upon receipt of the notification the owner shall, within thirty days, surrender the registration card and registration plates to the county treasurer of the county where the vehicle is registered, except that the registration plates shall not be surrendered if validation stickers or other emblems are used to designate the month and year of expiration of registration. Upon payment of the annual registration fee, less the credit allowed for the remaining months of the unused portion of the registration fee, the county treasurer shall issue a new registration card and registration plates, validation stickers, or emblems which indicate the month and year of expiration of registration.

3. Vehicles subject to registration which are owned by a person other than a natural person shall be registered for a registration year as determined by the county treasurer.

(82 Acts, ch 1062, § 34, 38) HF 808
 Effective December 1, 1983
 NEW section

(83 Acts, ch 24, § 8, 12) SF 453
 Amendment effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year
 Subsection 1 amended

321.27. Implementation of twelve-month registration period. To implement the change from calendar year registration to the system provided for in section 321.26, the vehicles registered by the county treasurer on or after December 1, 1983, shall be registered as follows:

1: Vehicle registrations which are not delinquent may be registered on or after December 1, 1983 up to and including January 31, 1984 without penalty. Registration

fees paid on or after February 1, 1984 shall be subject to a penalty equal to five percent of the annual registration fee and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid.

2. Vehicles shall be registered for the registration year as defined in section 321.1, subsection 82. If the registration year of the vehicle is for a period of less than twelve months, the registration fee shall be prorated for the remaining unexpired months, except as provided in subsection 3.

3. The owner of a vehicle for which the registration year begins on February 1 may elect to register the vehicle for a period of one month or thirteen months. The owner of a vehicle for which the registration year begins on March 1 may elect to register the vehicle for a period of two months or fourteen months. The owner of a vehicle for which the registration year begins on April 1 may elect to register the vehicle for a period of three months or fifteen months.

4. When a registration fee computed contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. However, the fee shall not be less than one dollar.

(82 Acts, ch 1062, § 35, 38) HF 808

Effective December 1, 1983

See Code editor's note at the end of this Supplement

NEW section

(83 Acts, ch 24, § 9, 12) SF 453

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

NEW subsection 4

321.34 Plates or validation sticker furnished — retained by owner.

1. *Plates issued.* The county treasurer upon receiving application, accompanied by proper fee, for registration of a vehicle shall issue to the owner one registration plate for a motorcycle, motorized bicycle, truck tractor, trailer, or semitrailer and two registration plates for every other motor vehicle. The registration plates, including special registration plates, shall be assigned to the owner of a vehicle. Whenever the owner of a registered vehicle transfers or assigns ownership of such vehicle to another person the owner shall remove the registration plates from the vehicle. The owner shall forward the plates to the county treasurer where the vehicle is registered or the owner may have the plates assigned to another vehicle within thirty days after transfer, upon payment of the fees required by law. The owner shall immediately affix registration plates retained by the owner to another vehicle owned or acquired by such person, providing the owner complies with section 321.46.

2. *Validation stickers.* In lieu of issuing new registration plates each registration year for a vehicle renewing registration, the department may reassign the registration plates previously issued to the vehicle and may adopt and prescribe annual validation stickers indicating payment of registration fees. The department shall issue two validation stickers for each registration plate. One sticker shall specify the year of expiration of the registration period. The second sticker shall specify the month of expiration of the registration period. The month of registration shall not be required on registration plates or validation stickers issued for vehicles registered under chapter 326.

The state department of transportation shall promulgate rules to provide for the placement of motor vehicle registration validation stickers on all registration plates issued for the motor vehicle when such validation stickers are issued in lieu of issuing new registration plates under the provisions of this section.

3. *Radio operators plates.* The owner of an automobile, light delivery truck, panel delivery truck, or pickup who holds an amateur radio license issued by the federal communications commission may, upon written application to the county treasurer accompanied by a fee of five dollars, order special registration plates bearing the call letters authorized the radio station covered by the person's amateur radio license. When received by the county treasurer, such special registration plates

shall be issued to the applicant in exchange for the registration plates previously issued to the person. Not more than one set of special registration plates may be issued to an applicant. Said fee shall be in addition to and not in lieu of the fee for regular registration plates. Special registration plates must be surrendered upon expiration of the owner's amateur radio license and the owner shall thereupon be entitled to his regular registration plates. The county treasurer shall validate special plates in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

4. *Multiyear plates.* In lieu of issuing annual registration plates for trailers and semitrailers, the department may issue multiyear registration plates for a three-year period for trailers and semitrailers licensed under chapter 326 upon payment of the appropriate registration fee. Fees from three-year payments shall not be reduced or prorated.

5. *Personalized registration plates.*

a. Upon application and the payment of a fee of twenty-five dollars, the director may issue to the owner of a motor vehicle registered in this state, personalized registration plates marked with the initials, letters, or a combination of numerals and letters requested by the owner. Upon receipt of the personalized registration plates, the applicant shall surrender the regular registration plates to the county treasurer. The fee for issuance of the personalized registration plates shall be in addition to the regular annual registration fee.

b. The county treasurer shall validate personalized registration plates in the same manner as regular registration plates are validated under this section at an annual fee of five dollars in addition to the regular annual registration fee.

c. The fees collected by the director under this section shall be paid to the treasurer of state and credited by him as provided in section 321.145.

6. *Sample vehicle registration plates.* Vehicle registration plates displaying the general design of regular registration plates, with the word "sample" displayed on the plate, may be furnished to any person upon payment of a fee of three dollars, except that such plates may be furnished to governmental agencies without cost. Sample registration plates shall not be attached to a vehicle moved on the highways of this state.

7. *Handicapped plates.* The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who is a handicapped or paraplegic person as defined in section 601E.1, may upon written application to the department, order special registration plates designed by the department bearing the international symbol of accessibility. The application shall be approved by the department and the special registration plates shall be issued to the applicant in exchange for the previous registration plates issued to the person. The fee for the special plates shall be five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee. However, the special plates shall not be renewed without the applicant furnishing evidence to the department that the owner of the motor vehicle is still a handicapped or paraplegic person as defined in section 601E.1. The special registration plates shall be surrendered in exchange for regular registration plates when the owner of the motor vehicle no longer qualifies as a handicapped or paraplegic person as defined in section 601E.1.

8. *Prisoner of war plates.* The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who was a prisoner of war during the second world war at any time between December 7, 1941 and December 31, 1946, the Korean conflict at any time between June 25, 1950 and January 31, 1955 or the Vietnam conflict at any time between August 5, 1964 and June 30, 1973, all dates inclusive, may upon written application to the department, order special registration plates designed by the department in

co-operation with the adjutant general which plates signify that the applicant was a prisoner of war as defined in this subsection. The application shall be approved by the department, in consultation with the adjutant general, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

9. *National guard plates.* The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who is a member of the national guard, as defined in chapter 29A, may upon written application to the department, order special registration plates designed by the department in co-operation with the adjutant general which plates signify that the applicant is a member of the national guard. The application shall be approved by the department, in consultation with the adjutant general, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee. Special registration plates shall be surrendered in exchange for regular registration plates upon termination of the owner's membership in the active national guard.

(82 Acts, ch 1032, § 2, 4) SF 2183

Effective December 1, 1983

Subsection 2 struck and following subsections renumbered

(82 Acts, ch 1062, § 4, 38) HF 808

Effective December 1, 1983

Subsection 3, unnumbered paragraph 1 amended

321.39 Expiration of registration. Except as provided in this chapter every vehicle registration, registration card, and registration plate shall expire as follows:

1. For vehicles registered under chapter 326 and any motor truck, truck tractor, or road tractor registered for a combined gross weight exceeding five tons, at midnight on the last day of December of each year.
2. For vehicles registered by the county treasurer, at midnight on the last day of the registration year.
3. For vehicles on which the first installment of an annual fee has been paid, at midnight on the last day of June; for vehicles on which the second installment of an annual fee has been paid, at midnight on the last day of December.
4. For vehicles registered without payment of fees as provided in section 321.19, when designated by the department.
5. For mobile homes, at midnight on the last day of June and December each year.

Registration for every vehicle registered by the county treasurer shall expire upon transfer of ownership.

(82 Acts, ch 1062, § 5, 38) HF 808

Effective December 1, 1983

Struck and rewritten

321.40 Application for renewal. Application for renewal of a vehicle registration shall be made on or after the first day of the month of expiration of registration and up to and including the last day of the month following the month of expiration of registration. The registration shall be renewed upon payment of the appropriate registration fee.

Registration receipts issued for renewals shall have the word "renewal" imprinted thereon and, if the owner making a renewal application has been issued a certificate of title, the title number shall appear on the registration receipt. All registration

receipts for renewals shall be typewritten or printed by other mechanical means. The applicant shall receive a registration receipt.

The county treasurer shall refuse to renew the registration of a vehicle registered to a person when notified that there is a warrant outstanding for that person's arrest out of a court located within that county and the warrant arises out of the alleged violation of a provision of this chapter or of an ordinance adopted by a local authority relating to the stopping, parking or operation of a vehicle or the regulation of traffic. Each clerk of court in this state shall, by December 1 of each year, submit to the county treasurer of that county an alphabetized list of all persons against whom such an arrest warrant has been issued and is outstanding. Immediately upon the cancellation or satisfaction of such an arrest warrant the clerk of court shall notify the person against whom the arrest warrant was issued and the county treasurer if that person's name appeared on the last list furnished to the county treasurer. This paragraph shall not apply to the transfer of a registration or the issuance of a new registration. The provisions of this paragraph are applicable to counties with a population of two hundred thousand or more. The provisions of this paragraph shall be applicable to any county with a population of less than two hundred thousand upon the adoption of a resolution by the county board of supervisors so providing.

When application is made for the renewal of a motor vehicle registration on or after December 1, 1982, the person in whose name the registration is recorded shall notify the county treasurer of the type of fuel used by the vehicle if the type of fuel used is different from that which is shown on the registration receipt. If a motor vehicle registration indicates that the vehicle uses or may use a special fuel as defined in chapter 324 the county treasurer shall issue a special fuel user identification sticker. The person who owns or controls the vehicle shall affix the sticker in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the motor vehicle fuel supply tank.

(82 Acts, ch 1062, § 6, 7, 38) HF 808

Effective December 1, 1983

Unnumbered paragraph 1 struck and rewritten

Unnumbered paragraph 3 struck

321.46 New title and registration upon transfer of ownership.

1. The transferee shall within fifteen calendar days after purchase or transfer apply for and obtain from the county treasurer of the person's residence, or if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, a new registration and a new certificate of title for the vehicle except as provided in section 321.25 or 321.48. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and the signed registration card or other evidence of current registration as required by the department. The transferee shall be required to list a motor vehicle license number as part of the application for a registration transfer and a new title. The motor vehicle license number shall not be the social security number of the transferee unless requested by the transferee.

2. Upon filing the application for a new registration and a new title, the applicant shall pay a title fee of two dollars and a registration fee prorated for the remaining unexpired months of the registration year. The county treasurer, if satisfied of the genuineness and regularity of the application, and in the case of a mobile home, that taxes are not owing under chapter 135D, and that applicant has complied with all the requirements of this chapter, shall issue a new certificate of title and, except for a mobile home, a registration card to the purchaser or transferee, shall cancel the prior registration for the vehicle, and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24.

3. The applicant shall be entitled to a credit for that portion of the registration fee of the vehicle sold, traded, or junked within the state which had not expired prior

to the transfer of ownership of the vehicle. The registration fee for the new registration for the vehicle acquired shall be reduced by the amount of the credit. The credit shall be computed on the basis of the number of months remaining in the registration year, rounded to the nearest whole dollar. The credit shall be subject to the following limitations:

a. The credit shall be claimed within thirty days from the date the vehicle for which credit is granted was sold, transferred, or junked. After thirty days, all credits shall be disallowed.

b. Any credit granted to the owner of a vehicle which has been sold, traded, or junked may only be claimed by that person toward the registration fee for another vehicle purchased and the credit may not be sold, transferred, or assigned to any other person.

c. When the amount of the credit is computed to be an amount of less than five dollars, a credit shall be disallowed.

d. To claim a credit for the unexpired registration fee on a junked vehicle, the county treasurer shall disallow any claim for credit unless the owner presents a junking certificate or other evidence as required by the department to the county treasurer.

e. A credit shall not be allowed to any person who is eligible to receive a refund, upon proper application, under section 321.126.

f. The credit shall only be allowed if the owner provides the copy of the registration receipt to the county treasurer.

g. The credit allowed shall not exceed the amount of the registration fee for the vehicle acquired.

h. The credit shall be computed on the unexpired number of months computed from the date of purchase of the vehicle acquired.

4. If the registration fee upon application is delinquent, the applicant shall be required to pay the delinquent fee from the first day the registration fee was due prorated to the month of application for new title.

5. The seller or transferor may file an affidavit on forms prescribed and provided by the department with the county treasurer of the county where the vehicle is registered certifying the sale or transfer of ownership of the vehicle and the assignment and delivery of the certificate of title for the vehicle. Upon receipt of the affidavit the county treasurer shall file the affidavit with the copy of the registration receipt for the vehicle on file in the treasurer's office and on that day the treasurer shall forward copies of the affidavit to the department and to the county treasurer of the county of residence of the purchaser or transferee. Upon filing the affidavit it shall be presumed that the seller or transferor has assigned and delivered the certificate of title for the vehicle.

(83 Acts, ch 82, § 2) SF 379

Effective July 1, 1983

Subsection 1 amended

(82 Acts, ch 1062, § 8, 38) HF 808

Effective December 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

(83 Acts, ch 24, § 2, 3, 4, 12) SF 453

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

Subsection 3, paragraph g amended

Subsection 3, NEW paragraph h

NEW subsection 4

321.48 Vehicles acquired for resale.

1. When the transferee of a vehicle is a dealer who holds the vehicle for resale and operates the vehicle only for purposes incident to a resale and displays a dealer plate on the vehicle or does not drive such vehicle or permit it to be driven upon the highways, such transferee shall not be required to obtain a new registration or a new certificate of title but upon transferring title or interest to another person shall

execute and acknowledge an assignment and warranty of title upon the certificate of title assigned to the person and deliver the same to the person to whom such transfer is made. The dealer shall also sign the reverse side of the registration card for such vehicle indicating the name and address of the new purchaser.

A dealer licensed pursuant to chapter 322 or chapter 322C who has acquired a vehicle for resale which is subject to a security interest as provided in section 321.50 and who has forwarded to the secured party the sum necessary to discharge the security interest may offer the vehicle for sale prior to the receipt from the county treasurer of the certificate of title for the vehicle with the lien discharged for a period of not more than twenty days from the date the vehicle was acquired and the provisions of section 321.104, subsection 2 shall not apply.

2. Any foreign registered vehicle purchased or otherwise acquired by a dealer for the purpose of resale shall be issued a certificate of title thereto by the county treasurer of the dealer's residence upon proper application therefor as provided in this chapter and upon payment of a fee of two dollars and such dealer shall be exempt from the payment of any and all registration fees for such vehicle. Such application for certificate of title shall be made within forty-eight hours after said vehicle comes within the border of the state.

3. In a transaction in which a vehicle is traded to a dealer as defined in chapter 322 or chapter 322C toward the purchase price of another vehicle and each vehicle is owned in whole or in part by the same person, the person acquiring the vehicle from the dealer shall be entitled to a credit under section 321.46.

4. Nothing in this section shall be construed to prohibit a dealer from obtaining a new certificate of title or new registration in the same manner as other purchasers.

(83 Acts, ch 82, § 3) SF 379

Subsection 1 amended by adding NEW unnumbered paragraph 2

(82 Acts, ch 1062, § 9, 38) HF 808

Effective December 1, 1983

Amended

321.50 Security interest provisions.

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and a fee of two dollars for each security interest shown. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time in order to perfect the security interest. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9103. Delivery as provided in this subsection is an indication of a security interest on a certificate of title for purposes of chapter 554.

2. Upon receipt of the application and the required fee, the county treasurer shall notify the holder of the certificate of title to deliver to the county treasurer, within five days from the receipt of notice, the certificate of title to permit notation of the security interest. If the holder of the certificate of title shall fail to deliver it within the said five days, he shall be liable to anyone harmed by his failure.

3. Upon receipt of the application, the certificate of title, if any, and the required fee, the county treasurer shall note such security interest, and the date thereof, on the certificate over the signature of such officer or deputy and the seal of office. The county treasurer shall also note such security interest and the date thereof in the

county records system. The county treasurer shall then mail the certificate of title to the first secured party as shown thereon.

4. When a security interest is discharged, the holder shall note a cancellation of same on the face of the certificate of title over the holder's signature, and deliver the certificate of title to the county treasurer where title was issued. The county treasurer shall immediately note the cancellation of the security interest on the face of the certificate of title and in the county records system. The county treasurer shall on the same day deliver the certificate of title to the then first secured party or, if there is no such person, to the person as directed by the owner, in writing, on a form prescribed by the department or, if there is no person designated, then to the owner. The cancellation of the security interest shall be noted on the certificate of title by the county treasurer without charge. The holder of a security interest discharged by payment who fails to release the security interest within fifteen days after being requested in writing to do so shall forfeit to the person making the payment the sum of twenty-five dollars.

5. The Uniform Commercial Code, chapter 554, Article 9, shall apply to all transactions intended to create a security interest in vehicles except as provided in this chapter.

6. Any person obtaining possession of a certificate of title for a vehicle not already subject to a perfected security interest, except new or used vehicles held by a dealer or manufacturer as inventory for sale, who purports to have a security interest in such vehicle shall, within thirty days from the receipt of the certificate of title, deliver such certificate of title to the county treasurer of the county where it was issued to note such security interest and, if such person fails to do so, his purported security interest in the vehicle shall be void and unenforceable and such person shall forthwith deliver the certificate of title to the county treasurer of the county where it was issued. If no security interest has been filed for notation on the certificate of title, the certificate shall be mailed by the treasurer to the owner of the vehicle. For purposes of determining the commencement date of the thirty-day period provided by this subsection, it shall be presumed that the purported security interest holder received the certificate of title on the date of the creation of his purported security interest in the vehicle or the date of the issuance of the certificate of title, whichever is the latter. Any person collecting a fee from the owner of the vehicle for the purpose of perfecting a security interest in such vehicle who does not cause such security interest to be noted on the certificate of title by the county treasurer shall remit such fee to the department of revenue of this state.

7. Upon request of any person, the county treasurer shall issue his certificate showing whether there are, on the date and hour stated therein, any security interests noted on a particular vehicle's certificate of title, and the name and address of each secured party whose security interest is noted thereon. The uniform fee for a written certificate shall be two dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state; otherwise, three dollars. Upon request and payment of the appropriate fee, the county treasurer shall furnish a certified copy of any security interest notations for a uniform fee of one dollar per page.

(83 Acts, ch 5, § 3, 5) HF 68

Effective March 17, 1983

Subsection 1 amended

321.51 Transfers without inspection. Notwithstanding the provisions of chapter 322, and any other statute to the contrary, the title to a motor vehicle may be transferred without a certificate of inspection as prescribed by section 321.238, where such motor vehicle is materially damaged, inoperable, or unsafe for use upon the highway upon compliance with the following conditions:

1. That the registration fee of the vehicle is not delinquent.
2. That the vehicle was obtained for the purpose of restoring, rebuilding or

repairing and not for use upon the highway and such facts are evidenced by an affidavit signed by the transferee on a form provided by the department.

3. The transferor shall surrender the registration card and the certificate of title, or if a foreign vehicle from a nontitle state, such evidence of foreign registration and ownership as may be prescribed by the department, unless the vehicle is sold or transferred pursuant to the provisions of sections 321.89 to 321.91, for the vehicle together with the application of the transferee for a restricted certificate of title, the affidavit as provided in subsection 2 of this section and the fee for transfer to the county treasurer of the residence of the transferor who shall transmit the application of the transferee for a restricted certificate of title, the affidavit as provided in subsection 2 of this section, and the fee for transfer to the county treasurer of the county of residence of the transferee. No refund of fees previously paid for the registration of such motor vehicle shall be allowed.

4. Except as provided in section 321.52, the county treasurer of the county of residence of the transferee upon receipt of the application for a new certificate of title, the appropriate fee, and the affidavit as provided in subsection 2, and when satisfied as to the genuineness and regularity of the application, shall issue a restricted certificate of title to the applicant but shall not issue registration plates or a registration card. A restricted certificate of title shall be coded in the manner prescribed by the department and shall be red in color and shall have conspicuously imprinted thereon in bold print, in a manner prescribed by the department, the words "RESTRICTED CERTIFICATE OF TITLE — CANNOT BE REGISTERED AND OPERATED ON THE HIGHWAYS WITHOUT A VALID APPROVED CERTIFICATE OF INSPECTION EXCEPT AS PROVIDED IN SECTION 321.51 OF THE CODE OF IOWA." A county treasurer may also issue a restricted certificate of title which is not red in color but shall have the words "RED TITLE" in bold letters and the words "RESTRICTED — CANNOT BE REGISTERED WITHOUT A VALID APPROVED CERTIFICATE OF INSPECTION" stamped on the face of the title in red ink. At the time the transferee surrenders a valid approved certificate of inspection and the restricted certificate of title to the county treasurer of the county of residence, the county treasurer, upon payment of the appropriate fees, shall issue a certificate of title that is not restricted for the vehicle and shall also issue a registration card and registration plates to the applicant if the applicant is not in possession of registration plates which may be attached to the vehicle. The registration fee shall be prorated for the remaining unexpired months of the registration year. However, if the registration fee for the vehicle has been paid for the current year, the county treasurer shall issue a registration card and registration plates to the applicant if the applicant is not in possession of registration plates which may be attached to the vehicle upon payment of an additional registration fee of five dollars. A vehicle with a restricted certificate of title shall not have a registration plate attached to the vehicle.

5. A motor vehicle which has a restricted certificate of title may be sold or otherwise transferred as provided in this section, except provisions pertaining to the surrender of the current registration card shall not apply; however, such motor vehicle may be sold or otherwise transferred pursuant to section 321.48 to a dealer licensed under chapter 322 without compliance with the provisions of this section.

6. A vehicle sold or otherwise transferred pursuant to the provisions of this section shall not be driven upon the highway until a valid official certificate of inspection has been affixed to the vehicle and an unrestricted certificate of title, a registration card for the vehicle have been issued to the transferee and the transferee or purchaser has properly attached valid registration plates on the vehicle. However, upon receipt of an affidavit signed by the owner of the vehicle stating that the vehicle is reasonably safe for operation, an inspection station may issue a permit authorizing the owner to operate the vehicle to and from a specific inspection station. The affidavit and permit mentioned in this section shall be on forms prescribed and furnished by the department which shall forward these forms to each county

treasurer where they shall be made available upon request, such permit shall be valid for forty-eight hours after issuance by inspection station.

(82 Acts, ch 1062, § 10, 38) HF 808
Effective December 1, 1983
Subsection 4 amended

321.55 Registration required for certain vehicles owned or operated by nonresidents. A nonresident owner or operator engaged in remunerative employment within the state or carrying on business within the state and owning or operating a motor vehicle, trailer, or semitrailer within the state shall register each such vehicle and pay the same fees for registration as are paid for like vehicles owned by residents of this state. However, this paragraph does not apply to a person commuting from the person's residence in another state or whose employment is seasonal or temporary, not exceeding ninety days.

A nonresident owner of a motor vehicle operated within the state by a resident of the state shall register the vehicle and pay the same fees for registration as are paid for like vehicles owned by residents of this state. However, this paragraph does not apply to vehicles being operated by residents temporarily, not exceeding ninety days. It is unlawful for a resident to operate within the state an unregistered motor vehicle required to be registered under this paragraph.

(83 Acts, ch 58, § 1) SF 303
Struck and rewritten

321.69 Right to operate. Repealed by 82 Acts, ch 1062, § 37, 38. (HF 808)
Effective December 1, 1983

321.70 Dealer vehicles. A dealer registered under this chapter shall not be required to register any vehicle owned by the dealer which is being held for sale or trade, provided the registration fee was not delinquent at the time the vehicle was acquired by the dealer. When a dealer ceases to hold any vehicle for sale or trade or the vehicle otherwise becomes subject to registration under this chapter the registration fee and delinquent registration fee, if any, shall be due for the registration year.

(82 Acts, ch 1062, § 11, 38) HF 808
Effective December 1, 1983
Struck and rewritten

321.99 Fraudulent use of registration. A person shall not knowingly lend to another a registration card, registration plate, special plate, or permit issued to the person if the other person desiring to borrow the card, plate, or permit would not be entitled to the use of it. A person shall not knowingly permit the use of a registration card, registration plate, special plate, or permit issued to the person by one not entitled to it, nor shall a person knowingly display upon a vehicle a registration card, registration plate or permit not issued for that vehicle under this chapter. A violation of this section is a serious misdemeanor.

(83 Acts, ch 125, § 2) SF 493
Amended

321.105 Annual fee required. An annual registration fee shall be paid for each vehicle operated upon the public highways of this state unless the vehicle is specifically exempted under this chapter. If a vehicle, which has been registered for the current registration year, is transferred during the registration year, the transferee shall reregister the vehicle as provided in section 321.46.

The registration fee shall be paid to the county treasurer at the same time the application is made for the registration or reregistration of the motor vehicle or trailer. An owner may, when applying for registration or reregistration of a motor vehicle or trailer, request that the plates be mailed to the owner's post-office address. The owner's request shall be accompanied by a mailing fee as determined annually by the director.

Upon application by a financial institution, as defined in section 422.61, and approval of the application by the county treasurer, the county treasurer in any county may authorize the financial institution to receive applications for renewal of vehicle registrations and payment of the registration fees. The registration fees shall be delivered to the county treasurer at the time the county treasurer has processed the vehicle registration application. Registration fees received with vehicle registration applications shall be designated as public funds only upon receipt of such funds by the county treasurer from the financial institution.

In addition to the payment of an annual registration fee for each trailer and semitrailer to be issued an Iowa registration plate, an additional registration fee may be paid for a period of two subsequent registration years.

Seriously disabled veterans who have been provided with an automobile or other vehicle by the United States government under the provisions of sections 1901 to 1903, Title 38 of the United States Code, [38 U.S.C. § 1901 et seq. (1970)] shall be exempt from payment of any automobile registration fee provided in this chapter, and shall be provided, without fee, with a registration plate. The disabled veteran, to be able to claim the above benefit, must be a resident of the state of Iowa and must produce a certificate of title to the automobile owned and registered in this state in the name of said veteran.

(82 Acts, ch 1062, § 12, 38) HF 808

Effective December 1, 1983

Unnumbered paragraph 1 amended

(83 Acts, ch 123, § 125, 209) HF 628

Unnumbered paragraph 2 amended

321.106 Registration for fractional part of year. When a vehicle is registered under chapter 326 or a motor truck, truck tractor, or road tractor is registered for a combined gross weight exceeding five tons and there is no delinquency and the registration is made in February or succeeding months through November, the registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of December for a vehicle registered on a calendar year basis on which there is no delinquency. When a vehicle is registered on a birth month basis and there is no delinquency and the registration is made in the month after the beginning of the registration year or succeeding months the registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of the owner's birthday for a vehicle on which there is no delinquency. If a fee computed under this section contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. A fee computed under this section shall not be less than five dollars. The fee so computed shall be deemed to be the annual registration fee for the remainder of the registration year.

A reduction in the registration fee shall not be allowed by the department until the applicant files satisfactory evidence to prove that there is no delinquency in registration.

(82 Acts, ch 1062, § 13, 38) HF 808

Effective December 1, 1983

Struck and rewritten

(83 Acts, ch 24, § 5, 12) SF 453

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

Amended

321.107 Sworn statement. Repealed by 82 Acts, ch 1062, § 37, 38. (HF 808)

Effective December 1, 1983

321.108 Perjury. Repealed by 83 Acts, ch 24, § 11, 12. (SF 453)

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year.

321.112 Minimum motor vehicle fee. No motor vehicle, except as provided in sections 321.115 and 321.117 shall be registered for a registration year for less than ten dollars.

(82 Acts, ch 1062, § 14, 38) HF 808
Effective December 1, 1983
Amended

321.113 Automatic reduction. After a motor vehicle is more than five model years old, that part of the registration fee which is based on the value of the vehicle shall be:

Seventy-five percent of the rate as fixed when new;

After a motor vehicle is more than six model years old, fifty percent;

After a motor vehicle is more than eight model years old, that part of the registration fee based on the value of the vehicle shall be ten percent. Where the ninth registration fee for a motor vehicle has been computed and fixed by the department prior to July 4, 1949, there shall be added to the registration fee, in lieu of the ten percent provided for herein, one dollar if such registration fee has been computed and fixed at fifteen dollars or less and two dollars if the registration fee has been computed and fixed at more than fifteen dollars.

(82 Acts, ch 1062, § 15, 38) HF 808
Effective December 1, 1983
Amended

321.114 Proof of registration. Repealed by 82 Acts, ch 1062, § 37, 38. (HF 808)

Effective December 1, 1983

321.116 Electric automobiles. For all electric motor vehicles the annual fee shall be twenty-five dollars. When any electric motor vehicle which* is more than five model years old the annual registration fee shall be fifteen dollars.

(82 Acts, ch 1062, § 16, 38) HF 808

*"Which" probably should have been omitted
Effective December 1, 1983

Amended

321.117 Motorcycle, ambulance, and hearse fees. For all motorcycles the annual fee shall be ten dollars. For all motorized bicycles the annual fee shall be five dollars. When the motorcycle is more than five model years old, the annual registration fee shall be five dollars. The annual registration fee for ambulances and hearses shall be fifty dollars. Passenger car plates shall be issued for ambulances and hearses.

(82 Acts, ch 1062, § 17, 38) HF 808

Effective December 1, 1983

Amended

321.121 Special trucks for farm use. The registration fee for a special truck shall be eighty dollars for a gross weight of six tons, one hundred dollars for a gross weight of seven tons, one hundred twenty dollars for a gross weight of eight tons, and in addition, fifteen dollars for each ton over eight tons and not exceeding eighteen tons. The registration fee for a special truck with a gross weight registration exceeding eighteen tons but not exceeding nineteen tons shall be three hundred twenty-five dollars and for a gross weight registration exceeding nineteen tons but not exceeding twenty tons the registration fee shall be three hundred seventy-five dollars. Any person convicted of using a truck registered as a special truck for any purpose other than permitted by section 321.1, subsection 71, shall, in addition to any other penalty imposed by law, be required to pay regular motor truck registration fees upon such truck.

(82 Acts, ch 1062, § 18, 38) HF 808

Effective December 1, 1983

Amended

321.122 Trucks, truck tractors, road tractors, and semitrailers.

1. The annual registration fee for truck tractors, road tractors, and motor trucks, except special trucks, shall be based on the combined gross weight of the vehicle or combination of vehicles. All trucks, truck tractors, or road tractors shall be registered for a gross weight equal to or in excess of the unladen weight of the vehicle or combination of vehicles. The annual registration fee for such vehicles or combination of vehicles shall be:

a. For a combined gross weight of three tons or less forty-five dollars and a vehicle which is more than ten model years old thirty-five dollars.

b. For a combined gross weight exceeding three tons, the annual registration fee shall be as set forth in the following schedule:

| For a combined gross weight exceeding: | And not exceeding: | The annual registration fee shall be: |
|---|-----------------------|---|
| 3 Tons..... | 4 Tons..... | \$ 60 |
| 4 Tons..... | 5 Tons..... | \$ 70 |
| 5 Tons..... | 6 Tons..... | \$ 85 |
| 6 Tons..... | 7 Tons..... | \$ 110 |
| 7 Tons..... | 8 Tons..... | \$ 145 |
| 8 Tons..... | 9 Tons..... | \$ 180 |
| 9 Tons..... | 10 Tons..... | \$ 215 |
| 10 Tons..... | 11 Tons..... | \$ 250 |
| 11 Tons..... | 12 Tons..... | \$ 285 |
| 12 Tons..... | 13 Tons..... | \$ 320 |
| 13 Tons..... | 14 Tons..... | \$ 355 |
| 14 Tons..... | 15 Tons..... | \$ 445 |
| 15 Tons..... | 16 Tons..... | \$ 485 |
| 16 Tons..... | 17 Tons..... | \$ 525 |
| 17 Tons..... | 18 Tons..... | \$ 565 |
| 18 Tons..... | 19 Tons..... | \$ 610 |
| 19 Tons..... | 20 Tons..... | \$ 675 |
| 20 Tons..... | 21 Tons..... | \$ 715 |
| 21 Tons..... | 22 Tons..... | \$ 755 |
| 22 Tons..... | 23 Tons..... | \$ 795 |
| 23 Tons..... | 24 Tons..... | \$ 835 |
| 24 Tons..... | 25 Tons..... | \$ 965 |
| 25 Tons..... | 26 Tons..... | \$1,010 |
| 26 Tons..... | 27 Tons..... | \$1,060 |
| 27 Tons..... | 28 Tons..... | \$1,105 |
| 28 Tons..... | 29 Tons..... | \$1,150 |
| 29 Tons..... | 30 Tons..... | \$1,200 |
| 30 Tons..... | 31 Tons..... | \$1,245 |
| 31 Tons..... | 32 Tons..... | \$1,295 |
| 32 Tons..... | 33 Tons..... | \$1,340 |
| 33 Tons..... | 34 Tons..... | \$1,415 |
| 34 Tons..... | 35 Tons..... | \$1,465 |
| 35 Tons..... | 36 Tons..... | \$1,510 |
| 36 Tons..... | 37 Tons..... | \$1,555 |
| 37 Tons..... | 38 Tons..... | \$1,605 |
| 38 Tons..... | 39 Tons..... | \$1,650 |
| 39 Tons..... | 40 Tons..... | \$1,695 |

c. For a combined gross weight exceeding forty tons, the annual registration fee shall be one thousand six hundred ninety-five dollars plus eighty dollars for each ton over forty tons.

2. For semitrailers the annual registration fee shall be ten dollars which shall not be reduced or prorated under the provisions of chapter 326.

3. For truck tractors or road tractors equipped with two or more solid rubber tires, the annual registration fee shall be the fee for truck tractors or road tractors with pneumatic tires and of the same combined gross weight, plus twenty-five percent thereof.

4. This section shall not apply to a rubber-tired farm tractor not operated for hire upon the public highways.

An auxiliary axle may be registered on an annual basis and the annual registration fee shall be forty dollars for each ton of registered gross weight.

No auxiliary axle shall be registered which is not permanently identified by a serial or other identifying number permanently affixed thereto and permanently and conspicuously displayed.

(82 Acts, ch 1062, § 19, 38) HF 808

Effective December 1, 1983

Subsection 1, paragraph a amended

321.123 Trailers. All trailers except farm trailers and mobile homes, unless otherwise provided in this section, are subject to a registration fee of four dollars for trailers with a gross weight of one thousand pounds or less and ten dollars for other trailers. Trailers for which the empty weight is two thousand pounds or less are exempt from the certificate of title and lien provisions of this chapter. Fees collected under this section shall not be reduced or prorated under chapter 326.

1. Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, an annual fee of twenty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar, which amount shall not be prorated or refunded; except the annual fee for travel trailers of any type, when registered in Iowa for the first time or when removed from a manufacturer's or dealer's stock, shall be prorated on a monthly basis. The registrant of a travel trailer of any type shall be issued a "travel trailer" plate. It is further provided the annual fee thus computed shall be limited to seventy-five percent of the full fee after the vehicle is more than six model years old.

A travel trailer may be stored under the provisions of section 321.134, provided the travel trailer is not used for human habitation for any period during storage and is not moved upon the highways of the state. A travel trailer stored under the provisions of section 321.134 shall not be subject to either a personal property tax or a mobile home tax assessed under the provisions of chapter 135D.

If a travel trailer has been registered under this chapter at any time during a calendar year, the travel trailer is not subject to a personal property tax for that year.

2. Trailers and bulk spreaders which are not self-propelled having a gross weight of not more than twelve tons used for the transportation of fertilizers and chemicals used for farm crop production shall be subject to a registration fee of five dollars.

3. Motor trucks or truck tractors pulling trailers or semitrailers shall be registered for the combined gross weight of the motor truck or truck tractor and trailer or semitrailer, except that:

a. Motor trucks registered for six tons or less not used for hire, pulling trailers or semitrailers used by a person engaged in farming to transport commodities produced by the owner, or to transport commodities or livestock purchased by the owner for use in his own farming operation or used by any person to transport horses shall not be subject to registration for the gross weight of such trailer or semitrailer provided the combined gross weight does not exceed twelve tons, plus the tolerance provided for in section 321.466.

b. Motor trucks registered for six tons or less not used for hire, pulling trailers or semitrailers used by a person in his own operations shall not be subject to registration for the gross weight of such trailer or semitrailer provided the combined

gross weight does not exceed eight tons, plus the tolerance provided for in section 321.466.

(82 Acts, ch 1062, § 20, 38) HF 808

Effective December 1, 1983

Subsection 1, unnumbered paragraph 1 amended

321.124 Motor homes.

1. Motor homes are classified as follows:

a. Class "A" motor home means a truck chassis or special chassis upon which is built a driver's compartment and an entire body which provides temporary living quarters. A class "A" motor home shall also mean a passenger carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters.

b. Class "B" motor home means a completed van-type vehicle which has been converted, modified, constructed, or altered to provide temporary living quarters.

c. Class "C" motor home means an incomplete vehicle upon which is permanently attached a body designed to provide temporary living quarters.

2. Class "A" motor homes and class "C" motor homes are exempt from the provisions of section 322.5, subsection 2 except that a motor vehicle dealer showing class "A" motor homes and class "C" motor homes shall apply for a temporary permit upon forms and for such time as provided in section 322.5, subsection 2, and the department may issue the temporary permit upon payment of the fee provided therein.

3. The annual registration fee for motor homes and multipurpose vehicles is as follows:

a. For class "A" motor homes with a list price of eighty thousand dollars or more as certified to the department by the manufacturer, four hundred dollars for registration each year through five model years and three hundred dollars for each succeeding registration.

b. For class "A" motor homes with a list price of forty thousand dollars or more but less than eighty thousand dollars as certified to the department by the manufacturer, two hundred dollars for registration each year through five model years and one hundred fifty dollars for each succeeding registration.

c. For class "A" motor homes with a list price of twenty thousand dollars or more but less than forty thousand dollars as certified to the department by the manufacturer, one hundred forty dollars for the first five registrations and one hundred five dollars for each succeeding registration.

d. For class "A" motor homes with a list price of less than twenty thousand dollars as certified to the department by the manufacturer, one hundred twenty dollars for registration each year through five model years and eighty-five dollars for each succeeding registration.

e. For a class "A" motor home which is a passenger-carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters, ninety dollars for registration each year through ten model years and sixty-five dollars for each succeeding registration. In computing the number of registrations, the registrations shall be cumulative beginning with the registration of the class "A" motor home as a motor truck prior to its conversion, modification, or alteration to provide temporary living quarters.

f. For class "B" motor homes, ninety dollars for registration each year through five model years and sixty-five dollars for each succeeding registration.

g. For class "C" motor homes, one hundred ten dollars for registration each year through five model years and eighty dollars for each succeeding registration.

h. For multipurpose vehicles, seventy-five dollars for registration each year through five model years and fifty-five dollars for each succeeding registration.

(82 Acts, ch 1062, § 21, 38) HF 808

Effective December 1, 1983

Subsection 3 amended

(83 Acts, ch 75, § 1, 2) SF 450

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 3 amended; NEW paragraph c added

321.126 Refunds of fees.

Refunds of current registration fees paid for the registration of motor vehicles shall be allowed in accordance with this section, except that no refund shall be allowed and paid if the unused portion of the fee is less than five dollars. Subsections 1 and 2 shall not apply to motor vehicles registered by the county treasurer. The refunds shall be made as follows:

1. If the motor vehicle is destroyed by fire or accident, or junked and its identity as a motor vehicle entirely eliminated, the owner in whose name the motor vehicle was registered at the time of destruction or dismantling shall return the plates to the department and within thirty days thereafter make a statement of such destruction or dismantling and make claim for refund. With reference to the destruction or dismantling of a vehicle, no refund shall be allowed unless a junking certificate has been issued, as provided in section 321.52.

2. If the motor vehicle is stolen, the owner shall give notice of the theft to the department within five days. If the motor vehicle is not recovered by the owner thirty days prior to the end of the current registration year, the owner shall make a statement of the theft and make claim for refund.

3. If the motor vehicle is placed in storage by the owner upon the owner's entry into the military service of the United States, the owner shall return the plates to the county treasurer or the department and make a statement regarding the storage and military service and make claim for refund. Whenever the owner of a motor vehicle so placed in storage desires to again register the vehicle, the county treasurer or department shall compute and collect the fees for registration for the registration year commencing in the month the vehicle is removed from storage.

4. If the motor vehicle is registered by the county treasurer during the current registration year and the owner or lessee registers the vehicle for prorate under chapter 326, the owner of the registered vehicle shall surrender the registration plates to the county treasurer and may file a claim for refund.

5. A refund for trailers and semitrailers issued a multiyear registration plate shall be paid by the department upon application.

6. Notwithstanding any provision of this section to the contrary, there shall be no refund of proportional registration fees unless the state which issued the base plate for the vehicle allows such refund. If an owner subject to proportional registration leases the vehicle for which the refund is sought, the claim shall be filed in the names of both the lessee and the lessor and the refund payment made payable to both the lessor and the lessee. The term "owner" for purposes of this section shall include a person in whom is vested right of possession or control of a vehicle which is subject to a lease, contract, or other legal arrangement vesting right of possession or control in addition to the term as defined in section 321.1, subsection 36.

(82 Acts, ch 1062, § 22, 23, 38) HF 808

Amendments effective December 1, 1983

Unnumbered paragraph 1 and subsections 2, 3 and 4 amended

Subsequent paragraphs numbered

Subsection 1 struck and rewritten

321.127 Amount of refund. The refund for motor vehicles shall be computed on the basis of one-fourth of the annual registration fee multiplied by the number of remaining quarters of the registration year from date of filing of the claim for refund with the county treasurer, computed to the nearest quarter dollar. The department, unless reasonable grounds exist for delay, shall make refund on or before the fifteenth day of the quarter following the quarter in which the claim is filed with the department. For trailers or semitrailers issued a multiyear registration plate a refund shall be paid equal to the annual fee for twelve months times the remaining number of complete registration years. Refunds for motor vehicles registered for prorate under chapter 326 shall be paid on the basis of unexpired complete calendar months remaining from the date the claim is filed with the department.

(82 Acts, ch 1062, § 24, 38) HF 808

Effective December 1, 1983

Amended

321.128 Payment authorized. The department may make the payments under sections 321.126 and 321.127, when sufficient proof of such destruction by accident, or the junking and entire elimination of identity as a motor vehicle, theft, or storage by an owner entering the military service of the United States in time of war, is properly certified, approved by the county treasurer, and filed with the department.

(83 Acts, ch 24, § 10, 12) SF 453

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

Amended

321.132 When lien attaches. The lien of the original registration fee attaches, at the time the fee is first payable, as provided by law, and the lien of all renewals of registration attach on the first day of each succeeding registration year.

(82 Acts, ch 1062, § 25, 38) HF 808

Effective December 1, 1983

Amended

321.134 Monthly penalty. On the first day of the second month following the beginning of each registration year a penalty of five percent of the annual registration fee shall be added to the registration fees not paid by that date and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid. A penalty shall not be less than five dollars. If the owner of a vehicle surrenders the registration plates for a vehicle prior to the plates becoming delinquent, to the county treasurer of the county where the vehicle is registered, or to the department if the vehicle is registered under chapter 326, the owner may register the vehicle any time thereafter upon payment of the registration fee for the registration year without penalty. The penalty on vehicles registered under chapter 326 shall accrue February 1 of each year.

The annual registration fee for trucks, truck tractors, and road tractors, as provided in sections 321.121 and 321.122, may be payable in two equal semiannual installments if the annual registration fee exceeds the registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in the preceding unnumbered paragraph shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until the fee is paid. Semiannual installments do not apply to commercial vehicles subject to proportional registration, with a base state other than the state of Iowa, as defined in section 326.2, subsection 6. The penalty on vehicles registered under chapter 326 accrues August 1 of each year.

If a penalty applies to a vehicle registration fee provided for in sections 321.121 and 321.122, the same penalty shall be assessed on the fees collected to increase the registered gross weight of the vehicle, if the increased gross weight is requested within forty-five days from the date the delinquent vehicle is registered for the current registration period.

(82 Acts, ch 1062, § 26, 38) HF 808

Effective December 1, 1983

Struck and rewritten

(83 Acts, ch 24, § 6, 12) SF 453

Effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

Amended

321.149 Blanks. The department shall not later than November 15 of each year prepare and furnish the treasurer of each county all blank books, blank forms, and all supplies required for the administration of this chapter, including applications for registration and transfer of vehicles, quintuple receipts, and original remittance sheets to be used in remitting fees to the department, in such form as the department may prescribe. Contracts for the blank books, blank forms, and

supplies shall be awarded by the superintendent of printing to persons, firms, partnerships, or corporations engaged in the business of printing in Iowa unless, or through them, the persons, firms, partnerships or corporations cannot provide the required printing set forth in this section. In lieu of purchasing under competitive bids the superintendent of printing shall have authority to arrange with the director of the division of corrections of the department of human services to furnish the supplies as can be made in the state institutions.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

(82 Acts, ch 1062, § 27, 38) HF 808

Effective December 1, 1983

Amended

321.152 Fee for county. A county treasurer may retain for deposit two point six percent of the total collection for each annual or semiannual vehicle registration and each duplicate registration card or plate issued; sixty-five percent of all fees collected for certificates of title and certified copies of certificates of title; and one hundred percent of all fees collected for notation of security interests. The moneys retained shall be deducted, and reported to the department, when the county treasurer transfers the money collected under this chapter. However, a deduction is not lawful unless the county treasurer has complied with sections 321.24 and 321.153.

(83 Acts, ch 123, § 126, 209) HF 628

Amended

321.165 Manufacture by state. The director shall have authority to arrange with the director of the division of corrections of the department of human services to furnish such supplies as may be made at the state institutions.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

321.166 Vehicle plate specifications. Vehicle registration plates shall conform to the following specifications:

1. Registration plates shall be of metal and of a size not to exceed six inches by twelve inches, except that the size of plates issued for use on motorized bicycles, motorcycles, and special mobile equipment shall be established by the department.

2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county except plates issued for truck tractors, motorcycles, motorized bicycles, travel trailers, semitrailers and trailers. The year of expiration or the date of expiration shall be displayed on vehicle registration plates, except plates issued under section 321.19. Special truck registration plates shall display the word "special".

3. The registration plate number shall be displayed in characters which shall not exceed a height of four inches nor a stroke width exceeding five-eighths of an inch. Special plates issued to dealers shall display the alphabetical character "D", which shall be of the same size of the characters in the registration plate. The registration plate number issued for motorized bicycles and motorcycles shall be a size prescribed by the department.

4. The registration plate number, except on motorized bicycle, motorcycle, and special mobile equipment registration plates, shall be of sufficient size to be readable from a distance of one hundred feet during daylight.

5. There shall be a marked contrast between the color of the registration plates and the data which is required to be displayed on the registration plates. When a new series of registration plates is issued to replace a current series, the new registration plates shall be of a distinctively different color from the series which is replaced.

6. Registration plates issued a disabled veteran under the provisions of section 321.105, shall display the alphabetical characters "DV", which shall be of the same size as the characters in the registration plate number and shall precede the registration plate number.

7. The month of expiration of registration, which may be abbreviated, shall be displayed on vehicle registration plates issued by the county treasurer. A distinctive emblem or validation sticker may be prescribed by the department to designate the month of expiration which shall be attached to the embossed area on the plate located at the lower corners of the registration plate.

(82 Acts, ch 1032, § 3, 4) SF 2183

Effective December 1, 1983

Subsections 1 and 4 amended

(82 Acts, ch 1062, § 28, 29, 36, 38) HF 808

Effective December 1, 1983

Requirement in subsection 7 for an embossed area on the plate is effective for the next registration year for which the department issues new registration plates and applies thereafter

See Code editor's note at the end of this Supplement

Subsection 2 amended

NEW subsection 7

(83 Acts, ch 24, § 7, 12) SF 453

Amendments effective December 1, 1983 for registration fees payable on or after that date for vehicle registrations for the succeeding registration year

Subsection 2 amended

321.167 Delivery of plates, stickers, and emblems. The department, upon requisition by the county treasurer, shall provide vehicle registration plates, validation stickers, and emblems as required for the administration of this chapter. Vehicle registration plates and validation stickers shall be provided to the county treasurer in numerical sequence.

(82 Acts, ch 1062, § 30, 38) HF 808

Effective December 1, 1983

Struck and rewritten

321.189 Licenses issued.

Special provisions for persons who possessed a minor's school license under section 321.194 or a one-year probationary operator's license under section 321.177, subsection 2, prior to July 1, 1982; see 83 Acts, ch 49, § 2, 3, 4 (HF 587), effective May 6, 1983

321.192 Disposal of fees. The license fees shall be forwarded by the department to the treasurer of state who shall place them in the general fund of the state. However, for each operator's and motorized bicycle license issued by a county sheriff for which a license fee is paid, the sheriff issuing it may retain the sum of fifteen cents and for each chauffeur's license, the sum of fifty cents.

(83 Acts, ch 123, § 127, 209) HF 628

Amended

321.194 Minors' school licenses. Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a restricted license to a person between the ages of fourteen and eighteen years. The license shall entitle the holder, while having the license in immediate possession, to operate a motor vehicle during the hours of 6 a.m. to 9 p.m. over the most direct and accessible route between the licensee's residence and schools of enrollment and between schools of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities at the schools or at any time when accompanied by a parent or guardian, driver education instructor, or prospective driver education instructor who is a holder of a valid operator's or chauffeur's license, and who is actually occupying a seat beside the driver. The license shall expire on the licensee's eighteenth birthday or upon issuance of a probationary operator's license or operator's license.

Each application shall be accompanied by a statement from the school board or superintendent of the applicant's school. The statement shall be upon a form

provided by the department. The school board or superintendent shall certify that a need exists for the license and that the board and superintendent are not responsible for actions of the applicant which pertain to the use of the restricted license. The department of public instruction shall adopt rules pursuant to chapter 17A establishing criteria for issuing a statement of necessity. Upon receipt of a statement of necessity, the department shall issue a restricted license. The fact that the applicant resides at a distance less than one mile from the applicant's schools of enrollment is prima-facie evidence of the nonexistence of necessity for the issuance of a license.

A license issued under this section is subject to suspension or revocation in like manner as any other license or permit issued under a law of this state. The department may also suspend a license upon receiving satisfactory evidence that the licensee has violated the restrictions of the license or has been involved in one or more accidents chargeable to the licensee. The department may suspend a license issued under this section upon receiving a record of the licensee's conviction for one violation and shall revoke the license upon receiving a record of conviction for two or more violations of a law of this state or a city ordinance, other than parking regulations, regulating the operation of motor vehicles on highways. After revoking a license under this section the department shall not grant application for a new license or permit until the expiration of one year or until the licensee's sixteenth birthday whichever is the longer period.

(83 Acts, ch 49, § 1, 4) HF 587

Effective May 6, 1983

Amended

(83 Acts, ch 101, § 68) SF 136

See Code editor's note to section 12.10 at the end of this Supplement

Amended

321.209 Mandatory revocation. The department shall forthwith revoke the license of any operator or chauffeur, or driving privilege, upon receiving a record of such operator's or chauffeur's conviction of any of the following offenses, when such conviction has become final:

1. Manslaughter resulting from the operation of a motor vehicle.
2. Operating a motor vehicle in violation of section 321.281 by a person whose driver's license has not been revoked under chapter 321B for the occurrence from which the arrest arose.
3. A felony if during the commission of the felony a motor vehicle is used.
4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another.
5. Perjury or the making of a false affidavit or statement under oath to the department under this chapter or under any other law relating to the ownership or operation of motor vehicles.
6. Conviction, or forfeiture of bail not vacated, upon two charges of reckless driving.
7. Conviction of drag racing.
8. Eluding or attempting to elude a law enforcement vehicle as provided in section 321.279.

(83 Acts, ch 125, § 3) SF 493

Subsection 3 amended

321.211 Notice and hearing. 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 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.

A peace officer stopping a person for whom a notice of a suspension or revocation has been issued or to whom a notice of a hearing has been sent under the provisions of this section may personally serve such notice upon forms approved by the department to satisfy the notice requirements of this section. The peace officer may confiscate the motor vehicle license of such person if the license has been revoked or has been suspended subsequent to a hearing and the person has not forwarded the motor vehicle license to the department as required.

(83 Acts, ch 198, § 21) SF 531

Unnumbered paragraph 1 amended

321.253 Department to erect signs. The department shall place and maintain such traffic-control devices, conforming to its manual and specifications, upon all primary highways as it shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic. Whenever practical, said devices or signs shall be purchased from the director of the Iowa department of corrections.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Effective October 1, 1983

Amended

321.271 Reports confidential — without prejudice — exceptions. All accident reports filed by a driver of a vehicle involved in an accident as required under section 321.266 shall be in writing. The report shall be without prejudice to the individual so reporting and shall be for the confidential use of the department, except that upon the request of any person involved in the accident, his insurance company or its agent, or the attorney for such person, the department shall disclose the identity and address of the person involved in the accident. The written report filed with the department shall not be admissible in or used in evidence in any civil or criminal case arising out of the facts on which the report is based.

All written reports filed by a law enforcement officer as required under section 321.266 shall be made available to any party to an accident, the party's insurance company or its agent, or the party's attorney, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, or the party's attorney, on written request and the payment of a fee.

(83 Acts, ch 72, § 1) HF 57

Unnumbered paragraph 2 amended

321.303 Limitations on overtaking on the left. A vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of a vehicle approaching from the opposite direction or a vehicle overtaken. The overtak-

ing vehicle shall return to the right-hand side of the roadway before coming within three hundred feet of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit in excess of thirty miles per hour, and the overtaking vehicle shall return to the right-hand side of the roadway before coming within one hundred feet of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit of thirty miles per hour or less.

(83 Acts, ch 125, § 4) SF 493

Amended

321.309 Towing — convoys — drawbars. No person shall pull or tow by motor vehicle, for hire, another motor vehicle over any highway outside the limits of any incorporated city, except in case of temporary movement of a disabled motor vehicle to the place where repairs will be made, unless such person has complied with the provisions of sections 321.57 and 321.58. Provided, however, if such person is a nonresident of the state of Iowa and has complied with the laws of the state of his residence governing licensing and registration as a transporter of motor vehicles he shall not be required to pay the fee provided in section 321.58 but only to submit proof of his status as a bona fide manufacturer or transporter as may reasonably be required by the department.

Every person pulling or towing by motor vehicle another motor vehicle in convoy or caravan shall maintain a distance of at least five hundred feet between the units of said convoy or caravan.

The drawbar or towing arm between a motor vehicle pulling or towing another motor vehicle shall be of a type approved by the director, except in case of the temporary movement of a disabled vehicle in an emergency situation.

(83 Acts, ch 101, § 69) SF 136

Unnumbered paragraph 3 amended

321.346 Cost of signs. The cost of the signs on primary highways shall be paid out of the primary road fund. The cost of the signs on secondary roads shall be paid by the county.

(83 Acts, ch 123, § 128, 209) HF 628

Amended

321.352 Additional signs — cost. The county board of supervisors shall, at places deemed by them unusually dangerous on the local county roads, furnish and erect suitable warning signs. The cost of the signs shall be paid by the county.

(83 Acts, ch 123, § 129, 209) HF 628

Amended

321.377 Speed of school bus. A motor vehicle in use as a school bus shall not be operated at a speed in excess of the posted maximum speed limit.

(83 Acts, ch 10, § 1) HF 157

Amended

321.382 Upgrade pulls — minimum speed. A motor vehicle or combination of vehicles, which cannot proceed up a three percent grade, on dry concrete pavement, at a minimum speed of twenty miles per hour, shall not be operated upon the highways of this state.

(83 Acts, ch 101, § 70) SF 136

Amended

321.438 Windshields and windows.

1. A person shall not drive a motor vehicle equipped with a windshield, side-wings, or side or rear windows which do not permit clear vision.

2. A person shall not operate on the highway a motor vehicle equipped with a front windshield, a side window to the immediate right or left of the driver, or a

sidewing forward of and to the left or right of the driver which is excessively dark or reflective so that it is difficult for a person outside the motor vehicle to see into the motor vehicle through the windshield, window, or sidewing. The department shall adopt rules establishing a minimum measurable standard of transparency which shall apply to violations of this subsection.

3. Every motor vehicle except a motorcycle, or a vehicle included in the provisions of section 321.383 or section 321.115 shall be equipped with a windshield in accordance with section 321.444.

(83 Acts, ch 125, § 5) SF 493

Amended

321.454 Width of vehicles.

1. The total outside width of any vehicle or the load thereon shall not exceed eight feet except that a bus having a total outside width not exceeding eight feet six inches, exclusive of safety equipment, is exempt from the permit requirements of chapter 321E and may be operated on the public highways of the state. However, if hay, straw or stover moved on any implement of husbandry and the total width of load of the implement of husbandry exceeds eight feet in width, the implement of husbandry is not subject to the permit requirements of chapter 321E. If hay, straw or stover is moved on any other vehicle subject to registration, the moves are subject to the permit requirements for transporting loads exceeding eight feet in width as required under chapter 321E. The vehicle width limitations imposed by this subsection only apply to the public highways of the state not subject to the width limitations imposed under subsection 2.

2. The total outside width of any vehicle and load shall not exceed eight feet six inches, exclusive of safety equipment determined necessary for safe and efficient operation by the secretary of the United States department of transportation, on highways designated by the transportation commission. The department shall adopt rules to designate the highways, in compliance with the highways designated by the secretary of the United States department of transportation as a part of the national system of interstate and defense highways and any other qualifying highways. The rules adopted under this subsection are exempt from chapter 17A.

(83 Acts, ch 9, § 5, 8) SF 207

Effective April 1, 1983

Subsection 1 amended

NEW subsection 2

321.457 Maximum length.

1. A combination of four vehicles is not allowed on the highways of this state, except for power units saddle mounted on other power units which shall be restricted to a maximum overall length of sixty-five feet.

2. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state, unless subject to the maximum length provisions of subsection 3, are as follows:

a. A single truck, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of forty feet.

b. A single bus, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of forty feet.

c. Except for combinations of vehicles, provisions for which are otherwise made in this chapter, no combination of a truck tractor and a semitrailer coupled together unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.

d. However, a mobile home not in excess of forty-eight feet in length may be drawn by any motor vehicle, except a motor truck, provided that the mobile home and its towing unit are not in excess of an overall length of sixty feet. For the purposes of this subsection, a light delivery truck, panel delivery truck or "pickup" is not a motor truck. A portable livestock loading chute not in excess of a length of thirteen

feet including its hitch or tongue may be drawn by any vehicle or combination of vehicles, provided that the vehicle or combination of vehicles drawing the loading chute is not in excess of the legal length provided for such vehicles or combinations.

e. Combinations of vehicles coupled together which are used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, and boats shall not exceed sixty-five feet in overall length. However, the load carried on a truck-semitrailer combination may extend up to two feet beyond the front bumper and up to three feet beyond the rear bumper.

f. A combination of three vehicles coupled together one of which is a motor vehicle, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.

g. A motor vehicle or combination of vehicles may be operated upon the highways of this state, irrespective of the length and weight limitations imposed by the laws of this state, if the motor vehicle or combination of vehicles is operated within the corporate limits of a city abutting a border of this state and such operations have been approved by ordinance of the city council and if the length and weight of the motor vehicle or combination of vehicles is in conformity with the laws relating to length and weight of the abutting state on July 1, 1974. If a city council has authorized such operation upon highways within the corporate limits, then the limit of travel for such motor vehicles or combination of vehicles within the state is extended to the commercial zones as described by federal regulations concerning interstate commerce, 49 code of federal regulations, paragraphs 1048.10, 1048.38, and 1048.101 as they exist on July 1, 1974.

h. A semitrailer shall not have a distance between the kingpin and the center of its rearmost axle in excess of forty feet, except a semitrailer used principally for hauling livestock, a semitrailer used exclusively for hauling self-propelled industrial and construction equipment, or a semitrailer used exclusively for the purposes described in paragraph e of this subsection. A semitrailer which is a 1980 or older model having a distance between the kingpin and center of the rearmost axle of more than forty feet may be operated on the highways of this state if a special overlength permit is obtained from the department for the vehicle. The special overlength permit shall be valid until the semitrailer is inoperable.

3. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state which are designated by the secretary of the United States department of transportation and the transportation commission as a part of the national system of interstate and defense highways and the federal-aid primary system shall be as follows:

a. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of fifty-three feet when operating in a truck tractor-semitrailer combination.

b. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of twenty-eight feet six inches when operating in a truck tractor-semitrailer-trailer combination.

c. Power units designed to carry cargo, when used in combination with a trailer or semitrailer shall not exceed sixty-five feet in overall length for the combination.

d. The department shall adopt rules to designate those highways designated by the secretary of the United States department of transportation as a part of the national system of interstate and defense highways and the federal-aid primary system. The rules adopted by the department under this paragraph are exempt from chapter 17A.

4. Fire fighting apparatus and vehicles operated during daylight hours when transporting poles, pipe, machinery, or other objects of a structural nature which cannot be readily disassembled when required for emergency repair of public service facilities or properties are not subject to the limitations on overall length of vehicles and combinations of vehicles imposed under this section. However, for operation

during nighttime hours, these vehicles and the load being transported shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps at the extreme ends of the projecting load to clearly mark the dimensions of the load. A member of the state highway safety patrol shall also be notified prior to the operation of the vehicle.

5. The department may adopt rules to designate highways, in addition to those designated under subsection 3, to which the overall length limitations imposed under subsection 3 for vehicles and combinations of vehicles shall be applicable. However, rules adopted under this subsection are subject to chapter 17A.

(83 Acts, ch 9, § 6, 7, 8) SF 207

Effective April 1, 1983

Struck and rewritten

(83 Acts, ch 116, § 2) SF 452

Subsection 1, as amended by SF 207, amended

321.465 Weighing vehicles and removal of excess. Any peace officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same either by means of portable or stationary scales and may require that such vehicle be driven to the nearest public scales.

Whenever an officer upon weighing a vehicle and load, as above provided, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with this section, is guilty of a simple misdemeanor.

Upon weighing a vehicle and load, as above provided, if such load is a sealed load, the weight officer shall issue a certificate setting forth the weights as determined by him and the seal number or numbers, if requested by the operator.

(83 Acts, ch 101, § 71) SF 136

Unnumbered paragraph 3 amended

321.466 Increased loading capacity — reregistration.

1. An increased gross weight registration may be obtained for any vehicle by payment of the difference between the annual fee for the higher gross weight and the amount of the fee for the gross weight at which it is registered.

2. During or after the seventh month of a current registration year, the owner of a motor truck, truck tractor, road tractor, semitrailer or trailer may, if the owner's operation has not resulted in a conviction or action pending under this section, increase the gross weight of the vehicle to a higher gross weight classification by payment of one-twelfth of the difference between the annual fee for the higher gross weight and the amount of the fee for the gross weight at which it is registered, multiplied by the number of unexpired months of the registration year.

3. Upon conversion of a truck to a truck tractor or a truck tractor to a truck, an increased gross weight registration of the proper type may be obtained for the vehicle by payment, except as provided in section 321.106, of one-twelfth of the difference between the annual fee for the higher gross weight and the amount of the annual fee for the gross weight at which the vehicle is registered, multiplied by the number of unexpired months of the registration year from the date of the conversion.

4. The registered gross weight of any vehicle or combination of vehicles may also be increased by installing and using a properly registered auxiliary axle or axles, and the combined registered gross weight of such vehicle and auxiliary axle or axles shall determine the total registered gross weight thereof. No auxiliary axle may be used

to convert a single axle to a tandem axle unless equipped with a device to equalize the load carried by the single axle and the said auxiliary axle when in tandem and when in motion or when standing, and the load transmitted to the highway by either the single axle or the auxiliary axle shall not exceed that permitted for any single axle, nor shall the load transmitted to the highway when in tandem and when in motion or when standing, exceed that permitted for any tandem axle.

5. It shall be unlawful for any person to operate a motor truck, trailer, truck tractor, road tractor, semitrailer or combination thereof, or any such vehicle equipped with a transferable auxiliary axle or axles, on the public highways with a gross weight exceeding that for which it is registered by more than five percent of the gross weight for which it is registered, provided, however, that any vehicle or vehicle combination referred to herein, while carrying a load of raw farm products, soil fertilizers, including ground limestone, raw dairy products or livestock, live poultry, eggs, may be operated with a gross weight of twenty-five percent in excess of the gross weight for which it is registered.

6. For the purposes of this section cracked or ground soy beans, sargo, corn, wheat, rye, oats or other grain shall be deemed to be raw farm products, provided that such products are being directly delivered to a farm, from the place where the whole grain had been delivered from a farm for the purpose of cracking or grinding and immediate delivery to the farm to which such cracked or ground products are being delivered.

7. The truck operator shall have in his possession a receipt showing place of processing on his return trip.

(82 Acts, ch 1062, § 31, 32, 38) HF 808

Effective December 1, 1983

Subsection 2 struck and following subsections renumbered

Subsections 2 (formerly 3) and 3 (formerly 4) amended

321.473 Limiting trucks — rubbish vehicles. Local authorities with respect to highways under their jurisdiction may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

The department may issue annual special permits for the operation of compacted rubbish vehicles and vehicles which transport compacted rubbish from a rubbish collection point to a landfill area, exceeding the weight limitation of section 321.463, but not exceeding a rear axle gross weight for two-axle vehicles of twenty-two thousand pounds for the period commencing July 1, 1978 and ending June 30, 1986 and twenty thousand pounds commencing July 1, 1986 and thereafter, and for tandem axle vehicles or transferable auxiliary axle vehicles not exceeding a gross weight on the rear axles of thirty-six thousand pounds. Annual special permits for the operation on secondary roads shall be approved by the county engineer. Annual special permits for a particular vehicle shall not be issued by the department unless prior approval is given by the county engineer of the county in which the vehicle will be operated. Annual special permits for operation on primary roads shall be approved by the state department of transportation. Compacted rubbish vehicles and vehicles which transport compacted rubbish from a rubbish collection point to a landfill area operated pursuant to an annual special permit shall be operated only over routes designated by the local authority. Annual special permits for a particular vehicle shall not be issued by the department unless approved by the local authority responsible for the roads over which the vehicle will be operated. Annual special permits approved by the issuing authority shall be issued upon payment of an annual fee, in addition to other registration fees imposed, of one hundred dollars to be paid to the department for all nongovernmental vehicles.

Any person who violates the provisions of the ordinance or resolution shall, upon conviction or a plea of guilty, be subject to a fine determined by dividing the

difference between the actual weight and the maximum weight established by the ordinance or resolution by one hundred, and multiplying the quotient by two dollars.

Local authorities may issue special permits, during periods such restrictions are in effect, to permit limited operation of vehicles upon specified routes with loads in excess of any restrictions imposed under this section, but not in excess of load restrictions imposed by any other provision of this chapter, and such authorities shall issue such permits upon a showing that there is a need to move to market farm produce or to move to any farm, feeds or fuel for home heating purposes.

(83 Acts, ch 131, § 1) HF 636

Unnumbered paragraph 2 amended

321.485 Notice to appear — promise to appear.

1. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of this chapter punishable as a simple, serious, or aggravated misdemeanor, such officer may:

- a. Immediately arrest such person and take him or her before a magistrate; or
- b. Without arresting the person, either

(1) Prepare a written citation to appear in court containing the name and address of such person, the operator or chauffeur license number, if any, the registration number, if any, of his or her vehicle, the offense charged, and the time when and place where such person shall appear in court; or

(2) Prepare a memorandum of the alleged traffic violation containing the name and address of such person, the registration number, if any, of his or her vehicle, the offense alleged to have been committed, and such other information as may be prescribed by the commissioner of public safety with the concurrence of the director.

2. If the officer prepares either a citation or a memorandum as provided in this section, the alleged offender shall be requested to sign it. If the person signs, the person may be released without arrest. In case a citation is issued, the signing shall constitute a written promise to appear as stated in the citation. A copy of the citation shall be presented to the person named therein. If a memorandum is prepared, the original shall be retained by the officer, and a copy shall be sent to the department, and a copy shall be presented to the person named therein.

3. For preparing the summons or memorandum referred to in this section, there shall be charged to the person named in the summons or memorandum, upon conviction, a fee of two dollars. The fee shall be assessed as part of the court costs.

4. The number of copies and the form of the citations and memorandums authorized by this section shall be as prescribed by the commissioner of public safety with the concurrence of the director.

5. This section shall not apply to a traffic offense which must be charged upon a uniform citation and complaint as provided in section 805.6.

(83 Acts, ch 123, § 130, 209) HF 628

Subsection 3 amended

321.486 Authorized bond forms. When bond or bail is required under section 811.2 to guarantee appearance for any offense charged under this chapter, the following nonexclusive forms shall be permitted subject to the following limitations:

1. A current guaranteed arrest bond certificate as defined in section 321.1, subsection 70 shall be considered sufficient surety if the defendant is charged with an offense where the penalty does not exceed two hundred dollars.

2. A valid credit card, as defined in section 537.1301, subsection 16, may be used and is sufficient surety when the defendant is charged with a scheduled offense under section 805.8. The defendant may use a credit card for bail purposes only in accordance with rules of the department of public safety adopted pursuant to chapter 17A.

(83 Acts, ch 101, § 72) SF 136

Subsection 2 amended

321.500 Original notice — form. The original notice of suit filed with the director of transportation against a nonresident shall be in form and substance the same as provided in R.C.P. 381, form 2, Ia. Ct. Rules, 2nd ed.

(83 Acts, ch 101, § 73) SF 136

Amended

CHAPTER 321A

MOTOR VEHICLE FINANCIAL RESPONSIBILITY

321A.1 Definitions. The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

1. *Director.* "Director" means the director of transportation or his designee.
2. *Judgment.* A judgment which has become final by expiration without appeal during the time within which an appeal might have been perfected, or a judgment if an appeal from the judgment has been perfected, which has not been stayed by the execution, filing and approval of a bond as provided in rule 7 (a) of the rules of appellate procedure, or a judgment which has become final by affirmation on appeal, rendered by a court of competent jurisdiction of a state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of a motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of a person, or for damages because of injury to or destruction of property, including the loss of use of property, or upon a cause of action on an agreement of settlement for such damages.
3. *License.* Any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.
4. *Motor vehicle.* "Motor vehicle" means every vehicle which is self-propelled but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires, but not operated upon rails. The term "car" or "automobile" shall be synonymous with the term "motor vehicle".
5. *Nonresident.* Every person who is not a resident of this state.
6. *Nonresident operating privilege.* The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.
7. *Operator.* Every person who is in actual physical control of a motor vehicle whether or not licensed as an operator or chauffeur under the laws of this state.
8. *Owner.* A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of a security agreement with a right of possession in the debtor, then such debtor shall be deemed the owner for the purpose of this chapter.
9. *Person.* Every natural person, firm, copartnership, association, or corporation.
10. *Proof of financial responsibility.* Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in amounts as follows: With respect to accidents occurring on or after January 1, 1981, and prior to January 1, 1983, the amount of fifteen thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, the amount of thirty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident; and with respect to accidents occurring on or after January 1, 1983, the amount of twenty thousand dollars because of bodily injury to or death of one person in any one

accident, and, subject to the limit for one person, the amount of forty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and the amount of fifteen thousand dollars because of injury to or destruction of property of others in any one accident.

11. *Registration.* Registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

12. *State.* Any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

(83 Acts, ch 101, § 74) SF 136

Subsection 2 amended

321A.3 Abstract of operating record — fees to be charged and disposition of fees.

1. The director shall upon request furnish any person a certified abstract of the operating record of a person subject to chapter 321 or this chapter. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person. If there is no record of a conviction of the person having violated any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the director shall so certify. A fee of four dollars shall be paid for each abstract except by state, county, city or court officials.

2. A sheriff may provide an abstract of the operating record of a person to the person or an individual authorized by the person. The sheriff shall charge a fee of four dollars for each abstract which the sheriff shall transfer to the director quarterly. The sheriff may charge an additional fee sufficient to cover costs incurred by the sheriff in producing the abstract.

3. The abstracts are not admissible as evidence in an action for damages or criminal proceedings arising out of a motor vehicle accident.

(83 Acts, ch 80, § 1) SF 231

Subsections 1 and 3 amended

NEW subsection 2

CHAPTER 321E

MOVEMENT OF VEHICLES OF EXCESSIVE SIZE AND WEIGHT

321E.1 Permits by department. The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery being temporarily moved on streets, roads or highways and for vehicles with indivisible loads which exceed the maximum dimensions and weights specified in sections 321.452 to 321.466, but not to exceed the limitations imposed in sections 321E.1 to 321E.15 except as provided in sections 321E.29 and 321E.30. Vehicles permitted to transport indivisible loads may exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load. Permits issued may be single-trip permits or annual permits. Permits shall be in writing and shall be carried in the cab of the vehicle for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by a peace officer or an authorized agent of a permit granting authority. When in the judgment of the issuing local authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits issued by local authorities shall designate the days

when and routes upon which loads and construction machinery may be moved within the county on other than primary roads.

(83 Acts, ch 116, § 3) SF 452

Amended

321E.7 Load limits per axle.

1. The gross weight on any axle of any vehicle or combination of vehicles traveling under a permit issued in accordance with the provisions of this chapter shall not exceed the maximum axle load prescribed in section 321.463; except that, construction machinery being temporarily moved on streets, roads, or highways may have a gross weight of thirty-six thousand pounds on any single axle equipped with a minimum size twenty-six point five-inch by twenty-five-inch flotation pneumatic tires and a maximum gross weight of twenty thousand pounds on any single axle equipped with minimum size eighteen-inch by twenty-five-inch flotation pneumatic tires, with the department authorized to adopt rules to permit the use of tire sizes and weights within the minimum and maximum specifications provided in this section, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of one hundred twenty-six thousand pounds; and except that a manufacturer of machinery or equipment manufactured or assembled in Iowa may be granted a permit for the movement of such machinery or equipment mounted on pneumatic tires with axle loads exceeding the maximum axle load prescribed in section 321.463 for distances not to exceed twenty-five miles at a speed not greater than twenty miles per hour. The movement of such machinery or equipment shall be over a specified route between the place of assembly or manufacture and a storage area, shipping point, proving ground, experimental area, weighing station, or another manufacturing plant.

2. Special mobile equipment, as defined in section 321.1, subsection 17, is not subject to the requirements for distance in feet between the extremes of any group of axles or the extreme axles of the vehicle or combination of vehicles as required by this chapter when being moved upon the highways, except the interstate road system, as defined in section 306.3, subsection 3.

3. Trailers registered in the state as of March 31, 1983 for the 1983 registration year used exclusively in the transportation of soil conservation equipment are not subject to the requirements for distance in feet between the extremes of any group of axles or the extreme axles of the vehicle or combination of vehicles as are required under section 321.463, except on the interstate road system as defined in section 306.3, subsection 3.

(83 Acts, ch 116, § 4) SF 452

NEW subsection 3

321E.10 Truck trailers manufactured in Iowa. The department or local authorities may upon application issue annual trip permits for the movement of truck trailers manufactured or assembled in this state that exceed the maximum length specified in section 321.457 and the maximum width specified in section 321.454. Movement of the truck trailers shall be solely for the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state, shall be only on roadways of twenty-four feet or more in width or on four-lane highways, shall be on the most direct route necessary for such movement, and shall display the special plates designated in section 321.57. All truck trailers under permit for such movement shall not contain freight or additional load. Truck trailers under permit for movement shall not exceed forty-five miles an hour or the established speed limit whichever is lower. A vehicle or combination of two or more vehicles inclusive of front

and rear bumpers, including towing units, involved in the movement of truck trailers shall not exceed an overall width of ten feet. Vehicles or combinations shall be distinctly marked on both the front and rear of the unit in a manner the director of transportation designates to indicate that the vehicles or combinations are being moved for delivery or transfer purposes only.

Permits issued under the provisions of this section shall be in writing and shall be carried in the cabs of the vehicles for which the permits have been issued and shall be available for inspection at all times. The vehicles for which the permits have been issued shall be open to inspection by any peace officer or to any authorized agent of any permit granting authority.

(83 Acts, ch 116, § 5) SF 452

Unnumbered paragraph 1 amended

321E.14 Fees for permits. The department or local authorities issuing the permits shall charge a fee of twenty-five dollars for an annual permit and a fee of ten dollars for a single-trip permit and shall determine charges for special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed one hundred dollars per ten-hour day or a prorated fraction of that fee per person and car for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 17, operated pursuant to section 321E.7, subsection 2, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

In addition to the fees provided in this section, the annual fee for a permit for a trailer transporting soil conservation equipment operated under section 321E.7, subsection 3, shall be one hundred dollars.

(83 Acts, ch 116, § 6) SF 452

Amended

321E.16 Violations — penalties. Any person who is convicted of a violation of any provision of this chapter or of rules adopted under section 321E.15, other than length, height, width, or weight allowed by any permit issued under this chapter shall be punished by a fine of not less than one hundred dollars for the first conviction, two hundred fifty dollars for a second conviction within a twelve-month period, and five hundred dollars for a third conviction within a twelve-month period. The fine for violation of the length, height, width, and weight allowed by permit shall be based upon the difference between the actual length, height, width, and weight of the vehicle and load and the maximum allowable by permit and in accordance with section 321.482 for violations of length, height, or width limitations and sections 321.482 and 321.463 for violation of weight limitations. If a vehicle with indivisible load traveling under permit is found to be in violation of weight limitations, the vehicle operator shall be allowed a reasonable amount of time to remove any ice, mud, snow, and other weight attributable to climatic conditions accumulated along the route prior to application of the penalties prescribed in sections 321.463 and 321.482. The department shall adopt rules to require peace officer escorts for permit holders convicted for the third time in a twelve-month period of violating a provision of this chapter or a provision of rules adopted pursuant to section 321E.15.

(83 Acts, ch 116, § 7) SF 452

Amended

321E.19 Permit suspended, changed or revoked. Upon complaint by local authorities or on the department's own initiative and after notice and hearing before one or more members of the permit issuing body, permit privileges under this chapter may be suspended, changed, or revoked in whole or in part by the issuing authority for willful failure to comply with any provisions of this chapter or with any rule adopted under authority of this chapter or with any term, condition, or limitation of the permit.

(83 Acts, ch 116, § 8) SF 452

Amended

321E.20 Suspension period. Whenever the issuing authority finds from the evidence adduced at hearing that a permit holder has willfully operated or caused to be operated a vehicle or vehicles in violation of this chapter, the authority may enter an order suspending, modifying, or revoking the permit in whole or in part at its discretion for a period not to exceed one hundred eighty days. If the issuing authority finds in a subsequent proceeding within twelve months from the date of the initial suspension, modification, or revocation that a permit holder has again willfully operated in violation of this chapter, the issuing authority shall order suspension, modification, or revocation of permit privileges in whole or in part for a period not to exceed two years.

(83 Acts, ch 116, § 9) SF 452

Amended

321E.24 Warning device on long loads. Any vehicle and load which exceed the limits provided in section 321.457 and in excess of a length of seventy-five feet shall carry a warning device clearly visible to a motorist approaching from the rear for a distance of five hundred feet.

(83 Acts, ch 116, § 10) SF 452

Amended

321E.28 Single-trip permits. The department and local authorities may, upon application and with good cause shown, issue single-trip permits for the movement of mobile homes or factory-built structures of widths including appurtenances exceeding twelve feet five inches subject to the following conditions:

1. Single-trip permits issued under this section shall be limited to mobile homes and factory-built structures of widths including appurtenances exceeding twelve feet five inches but not exceeding sixteen feet zero inches and where the overall length of the mobile home or the factory-built structure and the power unit does not exceed ninety-five feet.

2. Single-trip permits shall be issued only when the movement can be safely accomplished without causing unnecessary traffic congestion.

3. Single-trip permits issued under the provisions of this section shall specify the route over which the mobile home or factory-built structure shall be moved, and wherever possible, the department and local authorities shall specify highways having a roadway at least twenty-four feet in width.

4. Single-trip permits may be issued by the department or local authorities contingent upon favorable road and weather conditions.

5. A single-trip permit may be issued to allow the movement of a mobile home or factory-built structure on a fully controlled-access, divided, multilaned highway at a speed exceeding forty miles per hour but not exceeding forty-five miles per hour.

For the purposes of this section, "factory-built structure" means any structure which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site and is temporarily moved on its own axles.

(83 Acts, ch 74, § 1) SF 213

Subsection 1 amended

CHAPTER 324

MOTOR FUEL TAX LAW

324.3 Levy of excise tax — exemptions — credits. For the privilege of operating motor vehicles in this state an excise tax of thirteen cents per gallon beginning September 1, 1981 is imposed upon the use of all motor fuel used for any purpose except motor fuel containing at least ten percent alcohol distilled from agricultural products grown in the United States for the period beginning July 1, 1978 and ending June 30, 1986 and except as otherwise provided in this division. The tax shall be paid in the first instance by the distributor upon the invoiced gallonage of all motor fuel received by the distributor in this state, within the meaning of the word "received" as defined in this division, less the deductions authorized. Thereafter, except as otherwise provided, the per gallon amount of the tax shall be added to the selling price of every gallon of such motor fuel sold in this state and collected from the purchaser so that the ultimate consumer bears the burden of the tax; provided that tax shall not be imposed or collected under this division with respect to the following:

1. Motor fuel sold for export or exported from this state to any other state, territory, or foreign country.
2. Motor fuel sold to the United States or any agency or instrumentality thereof.
3. Motor fuel sold to any post exchange or other concessionaire on any federal reservation within this state; but the tax on motor fuel so sold, to the extent permitted by federal law, shall be collected by the post exchange or concessionaire, reported and paid the department of revenue.
4. Motor fuel used in the operation of an Iowa urban transit system. Any fuel sold to an Iowa urban transit system which is used for any purpose other than as specified in section 324.57, subsection 9, shall not be exempt from the tax.
5. Motor fuel sold to the state, any of its agencies, or to any political subdivision of the state, which is used for public purposes and delivered into any size of storage tank owned or used exclusively by the state, any of its agencies, or a political subdivision of the state. The department of revenue shall provide exemption certificate forms to the state, its agencies, and political subdivisions of the state so that they may provide a certificate of exemption to a distributor or dealer upon the delivery of motor fuel. The certificate of exemption shall specify the number of gallons of motor fuel received and state that all of the motor fuel delivered into the storage tank shall be used for public purposes.

Motor fuel shall be sold tax paid to the state of Iowa, any of its agencies, or to any political subdivision of the state, including motor fuel sold for the transportation of pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285 unless the motor fuel is delivered into storage tanks and exempt under subsection 5. Tax on fuel which is used for public purposes is subject to refund, including tax paid on motor fuel sold for the transportation of school pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285. Claims for refunds will be filed with the department on a quarterly basis and the director shall not grant a refund of motor fuel or special fuel tax where a claim is not filed within one year from the date the tax was due. The claim shall contain the number of gallons purchased, the calculation of the amount of motor fuel and special fuel tax subject to refund and any other information required by the department necessary to process the refund.

For the privilege of operating motor vehicles in this state an excise tax of six cents per gallon for the period beginning September 1, 1981 and ending April 30, 1982, an excise tax of eight cents per gallon for the period beginning May 1, 1982 and ending June 30, 1983, an excise tax of ten cents per gallon for the period beginning

July 1, 1983 and ending June 30, 1984, an excise tax of eleven cents per gallon for the period beginning July 1, 1984 and ending June 30, 1985, an excise tax of twelve cents per gallon beginning July 1, 1985 and ending June 30, 1986, is imposed upon the use of gasohol used for any purpose except as otherwise provided in this division.

(83 Acts, ch 150, § 1, 2) SF 14

NEW subsection 5

Unnumbered paragraph 2 (following subsection 5) amended

324.34 Tax imposed. For the privilege of operating motor vehicles in this state, there is levied and imposed an excise tax on the use (as defined herein) of special fuel in any motor vehicle. The rate of tax on special (diesel engine) fuel is thirteen and one-half cents per gallon beginning September 1, 1981 and fifteen and one-half cents per gallon beginning July 1, 1982. On all other special fuel the per gallon rate is the same as the motor fuel tax. The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and paid over to the department of revenue as provided in this chapter. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or delivery into a motor vehicle special fuel holding tank by a special fuel dealer or distributor, shall attach at the time of the use (as herein defined) of the fuel and shall be paid over to the department of revenue by the user as provided in this chapter.

All deliveries by distributors of special fuel to be used for highway use, except deliveries into a motor vehicle special fuel holding tank, must be made into storage connected to a sealed meter pump as licensed in said section. Special fuel delivered to a motor vehicle special fuel holding tank of a special fuel user by a distributor shall be metered upon delivery and the special fuel tax shall be collected by the distributor and paid over to the department of revenue.

The department of revenue shall make reasonable rules governing the dispensing of special fuel by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at special fuel dealer locations and licensed special fuel user locations through which fuel oil or liquefied petroleum gas can be dispensed, be metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture, and that special fuel delivered into the fuel supply tank of any motor vehicle or into a motor vehicle special fuel holding tank shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature corrected, only a temperature compensated meter shall be used.

The deliberate heating of road taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

All gallonage for nonhighway use, dispensed through metered pumps as licensed above, on which special fuel tax is not collected, must be substantiated by nonhighway exemption certificates as provided by the department of revenue, signed by the purchaser, and retained by the dealer.

For the privilege of purchasing special fuel, dispensed through metered pumps as licensed above, on a basis exempt from the special fuel tax, the purchaser shall sign nonhighway exemption certificates for the gallonage claimed for nonhighway use.

The department of revenue will disallow all sales said to be for nonhighway use unless proof is established by the retention of said certificate. Certificates for nonhighway use sales must be retained by the dealer for a period of three years.

For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be ten and one-half cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall

attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department of revenue by the person operating the compressing equipment under the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture.

A person shall not deliver any special fuel into the fuel supply tank of a motor vehicle registered in Iowa on or after March 15, 1983 unless there is a special fuel user identification sticker affixed in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the tank or unless the motor vehicle is registered under chapter 326.

Except for deliveries to a licensed special fuel dealer or licensed special fuel user or deliveries on which the special fuel tax is paid at the time of delivery it is unlawful to deliver liquefied petroleum gas into any tank which has a valve or other outlet capable of transferring the liquefied petroleum gas into the fuel supply tank of a motor vehicle unless the person making the delivery receives a written statement from the recipient of the fuel which states that the recipient knows that the use of liquefied petroleum gas for highway purposes is unlawful.

(83 Acts, ch 35, § 1) SF 225

Unnumbered paragraph 3 amended

324.74 Unlawful acts — penalty. It shall be unlawful:

1. For any person to knowingly fail, neglect or refuse to make any required return or statement or pay over fuel taxes as herein required.

2. For any person to knowingly make any false, incorrect or materially incomplete record required to be kept or made under the provisions of this chapter, to refuse to offer required books and records to the department of revenue or the state department of transportation for inspection on demand or to refuse to permit the department of revenue or the state department of transportation to examine the person's motor fuel or special fuel storage tanks and handling or dispensing equipment.

3. For any seller to issue or any purchaser to receive and retain any incorrect or false invoice or sales ticket in connection with the sale or purchase of motor fuel or special fuel.

4. For any claimant to alter any invoice or sales ticket, whether the invoice or sales ticket is to be used to support a claim for refund or income tax credit or not, provided, however, if claimant's refund permit shall have been revoked for cause as provided in section 324.19 such revocation shall be a bar to prosecution for violation of this subsection.

5. For any person to act as a motor fuel distributor, special fuel dealer or special fuel user without the required license.

6. For any person to use motor fuel or special fuel with respect to which he knowingly has not paid or had charged to his account with a distributor or dealer, or with respect to which does not within the time required in this chapter report and pay the applicable fuel tax.

7. For any special fuel dealer to dispense special fuel into the fuel supply tank of any motor vehicle without collecting the fuel tax.

8. For special fuel dealers or special fuel distributors to deliver special fuel on a tax paid basis into a tank with a capacity greater than one thousand fifty gallons.

9. Any delivery by a distributor of special fuel to a dealer or user for the purpose of evading the state tax on special fuels, into facilities other than those licensed above knowing that said fuel will be used as special fuel for highway use shall constitute a violation of this section. Any dealer or user for purposes of evading the state tax on special fuel, who allows a distributor to place special fuel for highway use in facilities other than those licensed above will also be deemed in violation of this section.

A person found guilty of an offense specified in this section is guilty of a fraudulent practice. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county. Prosecution for an offense specified in this section shall be commenced within six years following its commission.

(83 Acts, ch 160, § 1) HF 626

Unnumbered paragraph 2 (last paragraph) struck and rewritten

324.75 Penalty for false certificate — place of trial. Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation shall be guilty of a fraudulent practice.

In determining the place of trial, the situs of an offense in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county. Prosecution for an offense specified in this section shall be commenced within six years following its commission.

(83 Acts, ch 160, § 2) HF 626

NEW unnumbered paragraph 2

CHAPTER 326

MOTOR VEHICLE REGISTRATION RECIPROCITY

326.15 Refunds of registration fees. The refund of registration fees paid for motor vehicles under this chapter is allowed, except that no refund shall be allowed and paid if the unused portion of the fee is less than ten dollars per vehicle. Refunds shall be made as follows:

1. If the motor vehicle is destroyed by fire or accident, or junked and its identity as a motor vehicle is entirely eliminated, the owner in whose name the motor vehicle was registered at the time of destruction or dismantling shall return the plates to the department and make a claim for refund. A refund is not allowed unless a junking certificate has been issued, as provided in section 321.52.

2. If the motor vehicle is removed from the apportioned fleet, the owner in whose name the motor vehicle was registered shall return the plates to the department and make a claim for refund. A refund shall not be allowed without documentation of the subsequent registration of the motor vehicle.

3. If the motor vehicle is stolen, the owner shall give notice of the theft to the department within five days. If the motor vehicle is not recovered by the owner before December 1 of the year for which the registration fee was paid, the owner shall make a statement of theft and make a claim for refund.

4. If the composite percentage apportioned by an owner on a fleet of vehicles based in Iowa to each of the jurisdictions with which Iowa has an apportionment agreement is more than one hundred percent, the fleet owner may file a claim with the department for a refund of registration fees paid in excess of one hundred percent, except when percentages are computed over one hundred percent as specified in section 326.8. The claim for refund shall be filed on or after December 1 of the year for which refund is requested, and the fleet owner shall furnish satisfactory evidence of the alleged overpayment. The department shall prescribe and provide suitable forms requisite or deemed necessary to process claims and ensure that claims are paid to fleet owners who have complied with proportional registration requirements. A fleet owner may elect to apply a refund to proportional registration fees payable the next registration year in lieu of receiving a refund payable under this section. The state of Iowa is not liable for claims unless filed within four full years following the calendar year for which the application is made.

5. If as a result of an audit the motor vehicle registration fees are found to have been paid in error, a claim for refund shall be filed with satisfactory evidence of the error.

A refund for trailers and semitrailers issued multiyear registration plates shall be paid by the department under the previously stated conditions.

Refunds of proportional registration fees are allowed only if the state which issued the base plate for the vehicle allows a similar refund to Iowa carriers. If the motor vehicle for which refund is sought is leased by the owner to an apportioned registrant, the claim shall be filed in the names of both the lessee and the lessor and the refund payment made payable to both the lessee and the lessor.

Refunds of proportional registration fees shall be paid on the basis of unexpired complete calendar months remaining from the date the claim is filed with the department. Refunds for trailers and semitrailers issued a multiyear registration plate shall be paid on the basis of unexpired complete registration years remaining from the date the claim is filed.

(83 Acts, ch 161, § 1) HF 630
Struck and rewritten

CHAPTER 327D

REGULATION OF CARRIERS

327D.1 Applicability of chapter. This chapter shall apply to intrastate transportation by for hire common carriers of persons and property.

(83 Acts, ch 121, § 3) SF 499
Struck and rewritten

327D.200 Inconsistency with federal law — railroads. If any provision of this chapter is inconsistent or conflicts with federal laws, rules or regulations applicable to railway corporations subject to the jurisdiction of the federal interstate commerce commission, the authority shall suspend the provision, but only to the extent necessary to eliminate the inconsistency or conflict.

(83 Acts, ch 121, § 4) SF 499
NEW section

327D.201 Railroad intrastate rates — rules. The authority may issue rules relating to the regulation of railroad intrastate rates, classifications, rules and practices in accordance with the standards and procedures of the federal interstate commerce commission applicable to rail carriers.

(83 Acts, ch 121, § 4) SF 499
NEW section

CHAPTER 327G

FENCES, CROSSINGS, SWITCHES, PRIVATE BUILDINGS, SPUR TRACKS, AND REVERSION

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 the maintenance may be paid 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 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 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 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 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 the cost as provided in section 312.2, subsection 5.

(83 Acts, ch 198, § 22) SF 531

Amended

327G.76 Time of reversion. Railroad property rights which are extinguished upon cessation of service by the railroad divest when the railway finance authority or the railroad, having obtained authority to abandon the rail line, removes the track materials to the right-of-way. If the railway finance authority does not acquire the line and the railway company does not remove the track materials, the property rights which are extinguished upon cessation of service by the railroad divest one year after the railway obtains the final authorization necessary from the proper authority to remove the track materials.

(83 Acts, ch 121, § 5) SF 499

Struck and rewritten

327G.77 Reversion of railroad right-of-way.

1. If a railroad easement is extinguished under section 327G.76, the property shall pass to the owners of the adjacent property at the time of abandonment. If there are different owners on either side, each owner will take to the center of the right-of-way. Section 614.24 which requires the filing of a verified claim does not apply to rights granted under this subsection.

2. An adjoining property owner may perfect title under subsection 1 by filing an affidavit of ownership with the county recorder. The affidavit shall include the name of the adjoining property owner, a description of the property, the present name of the railroad, the jurisdiction, docket number, and date of order authorizing the railroad to terminate service, and the approximate date the track materials on the right-of-way were removed. A copy of the affidavit must be mailed by the landowner by certified mail to the railroad. The landowner shall pay taxes on the right-of-way from the date the affidavit is filed.

3. Utility facilities located on abandoned railroad right-of-way shall remain on the right-of-way subject to payment by the utility of the fair market value of an easement for the facilities. The utility shall, within sixty days from the time the property is transferred from the railroad, extend a written offer to the landowner to purchase the easement at fair market value. The landowner shall accept or reject the utility's offer within sixty days from the time of receipt. If a disagreement arises between the parties concerning the price or other terms of the transaction, either party may make written application to a compensation commission as established pursuant to chapter 472 to resolve the disagreement. This application shall be made within sixty days from the time the landowner's response is served upon the utility. The compensation commission shall hear the controversy and make a final determination of the fair market value of the easement and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

(83 Acts, ch 121, § 6) SF 499

Struck and rewritten

327G.78 Sale of railroad property. Subject to sections 327G.77 and 471.16 when a railroad corporation, its trustee, or successor in interest have interests in real property adjacent to a railroad right-of-way that are abandoned by order of the

interstate commerce commission, reorganization court, bankruptcy court, or the authority, or when a railroad corporation, trustee, or successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation or trustee shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the authority to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon the railroad corporation, trustee, or successor in interest by the person wishing to purchase the property. The authority shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

The decision of the authority shall be binding on the parties, except that a person who seeks to purchase such real property may withdraw the offer to purchase within thirty days of the authority's decision. If such a withdrawal is made, the railroad corporation, trustee, or successor in interest may sell or dispose of the real property without further order of the authority.

This section shall not apply when a rail line is being sold for continued railroad use.

(83 Acts, ch 121, § 7) SF 499

Unnumbered paragraph 1 amended

NEW unnumbered paragraph 3

CHAPTER 330

AIRPORTS

330.9 Plans and specifications. Before an airport is acquired by a city or county, the plans and specifications for it shall be submitted to the state department of transportation which shall require that they show the legal description and plat of the site, distance from the nearest post office and railroad station, location and type of highways, location and type of obstructions on and near the site, kind of soil and subsoil, costs and details of grading and draining, and location of proposed runways, hangars, buildings, and other structures.

The department shall issue approval of the plans and specifications if it finds that they are in substantial accord with the rules promulgated by the department or with the regulations of the federal aviation administration or other department of the federal government having general supervision of air navigation as it relates to plans and specifications for airports.

(83 Acts, ch 101, § 75) SF 136

Unnumbered paragraphs 1 and 2 amended

330.20 Appointment of commission. When a majority of the voters favors airport control and management by a commission, the governing body shall, within ten days, appoint an airport commission of three or five resident voters. In case of a commission of three members the first appointees shall hold office, one for two years, one for four years, and one for six years. In case of a commission of five members the first appointees shall hold office, one for two years, one for three years, one for four years, one for five years, and one for six years. All subsequent appointments shall be for a term of six years. Vacancies shall be filled as original appointments are made. Members of the airport commission shall serve without compensation. Each commissioner shall execute and furnish a bond in an amount fixed by the governing body and filed with the city clerk or county auditor. The commission shall elect from its own members a chairperson and a secretary who shall serve for a term as the commission shall determine.

(83 Acts, ch 123, § 131, 209) HF 628

Amended

CHAPTER 331

COUNTY HOME RULE IMPLEMENTATION

331.303 General duties of the board. The board shall:

1. Keep record books as follows:
 - a. A "minute book" which records all orders and decisions other than those relating to drainage districts. The minute book or a separate index book must contain an alphabetical index by subject matter categories of the proceedings shown by the minutes.
 - b. A "warrant book" which records each warrant drawn in the order of issuance by number, date, amount, and name of drawee, and refers to the order in the minute book authorizing its drawing.
 - c. A "claim register" which records all claims for money filed against the county. Claims shall be numbered consecutively in order of filing and entered alphabetically by the claimant's name. The claim register shall show the date of filing, the number of the claim and its general nature, and the action of the board on the claim including the fund against which it is allowed if it is allowed. The claims allowed at each meeting shall be listed in the minute book by claim number.
2. Maintain its records in accordance with chapter 68A.
3. Act upon applications for cigarette tax permits in accordance with chapter 98.
4. Act upon applications for liquor control licenses and retail beer permits in accordance with section 123.32.
5. Proceed upon a petition to establish an official county fair and pay tax funds to it in accordance with section 174.10, subsection 2, and section 331.422, subsection 7.
6. Select official newspapers and cause official publications to be made in accordance with chapters 349 and 618.
7. Adopt rules relating to the labor of prisoners in the county jail in accordance with sections 356.16 to 356.19, and may establish the cost of board and provide for the transportation of certain prisoners in accordance with section 356.30.
8. Divide the county into townships, and proceed upon a petition to divide, dissolve or change the name of a township in accordance with chapter 359.
9. Cause on-site inspections of pipeline construction projects as required in section 479.29, subsection 2, and the board may petition for rules as provided in that section.
10. Defend, save harmless, and indemnify its officers, employees, and agents against tort claims, and may settle the claims, in accordance with sections 613A.8 and 613A.9.
11. Perform other duties as required by law.

(83 Acts, ch 186, § 10069, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement; see section 602.11113

Subsection 10 struck and following subsections renumbered

331.321 Appointments.

1. The board shall appoint:
 - a. A co-ordinator of disaster services in accordance with section 29C.10.
 - b. A veterans memorial commission in accordance with sections 37.9 to 37.15, when a proposition to erect a memorial building or monument has been approved by the voters.
 - c. A county conservation board in accordance with section 111A.2, when a proposition to establish the board has been approved by the voters.
 - d. The members of the county board of health in accordance with section 137.4.
 - e. One member of the convention to elect the state fair board as provided in section 173.2, subsection 3.
 - f. A temporary board of community mental health center trustees in accordance with section 230A.4 when the board decides to establish a community mental health center, and members to fill vacancies in accordance with section 230A.6.

g. The members of the county board of social welfare in accordance with section 234.9.

h. A county commission of veteran affairs in accordance with sections 250.3 and 250.4, and a person to provide for the burial of indigent veterans in accordance with section 250.13.

i. A general relief director in accordance with section 252.26.

j. A member of the functional classification board in accordance with section 306.6.

k. One or more county engineers in accordance with sections 309.17 to 309.19.

l. A weed commissioner in accordance with section 317.3.

m. A county medical examiner in accordance with section 331.801, and the board may provide facilities, deputy examiners, and other employees in accordance with that section.

n. One member of the county compensation board in accordance with section 331.905.

o. Members of an airport zoning commission as provided in section 329.9, if the board adopts airport zoning under chapter 329.

p. Members of an airport commission in accordance with section 330.20 if a proposition to establish the commission has been approved by the voters.

q. One member of the civil service commission for deputy sheriffs in accordance with section 341A.2 or 341A.3, and the board may remove the member in accordance with those sections.

r. A temporary board of hospital trustees in accordance with sections 347.9 and 347.10 if a proposition to establish a county hospital has been approved by the voters.

s. An initial board of hospital trustees in accordance with section 347A.1 if a hospital is established under chapter 347A.

t. A county zoning commission, an administrative officer, and a board of adjustment in accordance with sections 358A.8 to 358A.11, if the board adopts county zoning under chapter 358A.

u. A board of library trustees in accordance with sections 358B.4 and 358B.5, if a proposition to establish a library district has been approved by the voters, or 358B.18 if a proposition to provide library service by contract has been approved by the voters.

v. A weather modification board, if requested by petition, in accordance with section 361.2.

w. Local representatives to serve with the city development board as provided in section 368.14.

x. Members of a city planning and zoning commission and board of adjustment when a city extends its zoning powers outside the city limits, in accordance with section 414.23.

y. A list of residents eligible to serve as a compensation commission in accordance with section 472.4, in condemnation proceedings under chapter 472.

z. Members of the county judicial magistrate appointing commission in accordance with section 602.6503.

aa. A member of the judicial district department of corrections as provided in section 905.3, subsection 1, paragraph "a".

ab. Members of a county enterprise commission or joint county enterprise commission if the commission is approved by the voters as provided in section 331.471.

ac. Other officers and agencies as required by state law.

2. If the board proposes to establish the office of public defender, it shall do so and appoint the public defender in accordance with section 331.776.

3. If the board proposes to appoint a county surveyor, it shall appoint a person qualified in accordance with section 355.1 and provide the surveyor with a suitable book in which to record field notes and plats.

4. Except as otherwise provided by state law, a person appointed to a county office may be removed by the officer or body making the appointment, but the removal shall be by written order. The order shall give the reasons and be filed in the office of the auditor, and a copy shall be sent by certified mail to the person removed who, upon request filed with the auditor within thirty days of the date of mailing the copy, shall be granted a public hearing before the board on all issues connected with the removal. The hearing shall be held within thirty days of the date the request is filed, unless the person removed requests a later date.

5. A board or commission appointed by the board of supervisors shall notify the county auditor of the name and address of its clerk or secretary.

6. A supervisor serving on another county board or commission shall be paid only as a supervisor for a day which includes official service on both boards.

(83 Acts, ch 186, § 10070, 10201) SF 495

Subsection 1, paragraph z amended

331.322 Duties relating to county and township officers. The board shall:

1. Require and approve official bonds in accordance with chapter 64 and section 682.6, and pay the cost of certain officers' bonds as provided in section 64.11 and section 331.324, subsection 6.

2. Make temporary appointments in accordance with section 66.19, when an officer is suspended under chapter 66.

3. Fill vacancies in county offices in accordance with sections 69.8 to 69.13, and make appointments in accordance with section 69.16.

4. Provide suitable offices for the meetings of the county conservation board and the safekeeping of its records.

5. Furnish offices within the county for the sheriff, and at the county seat for the recorder, treasurer, auditor, county attorney, county surveyor or engineer, county assessor, and city assessor. If the office of public defender is established, the board shall furnish the public defender's office as provided in section 331.776. The board shall furnish the officers with fuel, lights, and office supplies. However, the board is not required to furnish the county attorney or public defender with law books. The board shall not furnish an office also occupied by a practicing attorney to an officer other than the county attorney or public defender.

6. Review the final compensation schedule of the county compensation board and determine the final compensation schedule in accordance with section 331.907.

7. Provide necessary office facilities and the technical and clerical assistance requested by the county compensation board to accomplish the purposes of sections 331.905 to 331.907.

8. Provide the sheriff with county-owned automobiles or contract for privately owned automobiles as needed for the sheriff and deputies to perform their duties, the need to be determined by the board.

9. Provide the sheriff and the sheriff's full-time deputies with necessary uniforms and accessories in accordance with section 331.657.

10. Pay for the cost of board furnished prisoners in the sheriff's custody, as provided in section 331.658, appoint and pay salaries of assistants at the jails, furnish supplies, and inspect the jails.

11. Furnish necessary equipment and materials for the sheriff to carry out the provisions of section 690.2.

12. Install radio materials in the office of the sheriff as provided in section 693.4.

13. Provide for the examination of the accounts of an officer who neglects or refuses to report fees collected, if a report is required by state law. The expense of the examination shall be charged to the officer and collectible on the officer's bond.

14. Establish and pay compensation of township trustees and township clerk, as provided in sections 359.46 and 359.47.

15. Furnish quarters for meetings of the board of review of assessments.

16. Pay reasonable compensation to assistants for the jury commission established under chapter 608.

(83 Acts, ch 14, § 3) SF 158

Subsection 1 amended

(83 Acts, ch 186, § 10071, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement; see section 602.1303—602.1305

Subsection 5 amended

331.323 Powers relating to county officers.

1. A county may combine the duties of two or more of the following county officers and employees as provided in this subsection:

- a. Sheriff
- b. Treasurer
- c. Recorder
- d. Auditor
- e. Medical examiner
- f. General relief director
- g. County care facility administrator
- h. Commission on veteran affairs
- i. Director of social welfare
- j. County assessor
- k. County weed commissioner.

If a petition of electors equal in number to twenty-five percent of the votes cast for the county office receiving the greatest number of votes at the preceding general election is filed with the auditor, the board shall direct the commissioner of elections to call an election for the purpose of voting on the proposal. If the petition contains more than one proposal for combining duties, each proposal shall be listed on the ballot as a separate issue. If the majority of the votes cast is in favor of a proposal, the board shall take all steps necessary to combine the duties as specified in the petition.

The petition shall state the offices and positions to be combined and the offices or positions to be abolished. Offices and positions that have been combined may be subsequently separated by a petition and election in the same manner.

If an appointive officer or position is abolished, the term of office of the incumbent shall terminate one month from the day the proposal is approved. If an elective office is abolished, the incumbent shall hold office until the completion of the term for which elected, except that if a proposal is approved at a general election which fills the abolished office, the person elected shall not take office.

When the duties of an officer or employee are assigned to an elective officer, the board shall set the initial salary for the elective officer, which salary shall be at thirty percent greater than the salary otherwise established for the combined office or position with the highest salary. Thereafter, the salary shall be determined as provided in section 331.907. When the duties of officers or employees are combined, the person who fills the combined office shall take the oath and give the bond required for each office and perform all the duties pertaining to each.

2. The board may:

a. Require additional security on an officer's bond, in accordance with sections 65.2 and 65.3, or hear a petition of the surety for release and require a new bond, in accordance with sections 65.4 to 65.8.

b. Apply for the use of a requisitioned vehicle as provided in section 127.19.

c. Require any county officer to make a report to it under oath on any subject connected with the duties of the office, and remove from office by majority vote an officer who refuses or neglects to make a report or give a bond required by the board within twenty days after the requirement is made known to the officer.

d. Compromise an unsatisfied judgment rendered in favor of the county against a county officer and the sureties on the officer's bond, if the county is satisfied that

the full amount cannot be collected. The county may compromise with one or more of the sureties and release those sureties if the officer and each of the sureties on the officer's bond execute a written consent to the compromise and to the release of each of the sureties who agree to the compromise, and in the writing agree that the compromise and release do not release any of the sureties who do not agree to the compromise. The written consent shall be filed with the auditor. If the judgment is based upon a default in county funds, the money received under the compromise shall be paid pro rata to the funds in proportion to the amount each fund was in default at the time the judgment was rendered.

e. Authorize a county officer to destroy records in the officer's possession which have been on file for more than ten years, and are not required to be kept as permanent records.

f. Enter into an agreement with one or more other counties to share the services of a county attorney, in accordance with section 331.753.

g. Provide that the county attorney be a full-time or part-time officer in accordance with section 331.752.

h. Establish the number of deputies, assistants, and clerks for the offices of auditor, treasurer, recorder, sheriff, and county attorney.

i. Exercise other powers authorized by state law.

(83 Acts, ch 186, § 10072, 10073, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 1, paragraph f struck and following paragraphs relettered

Subsection 2, paragraph h amended

331.324 Duties and powers relating to county and township officers and employees.

1. The board shall:

a. Carry out the duties of a public employer to engage in collective bargaining in accordance with chapter 20.

b. Grant claims for mileage and expenses of officers and employees in accordance with sections 79.9 to 79.13 and section 331.215, subsection 2, and grant employees leaves of absence to participate in olympic competition in accordance with section 79.24.

c. Provide workers' compensation benefits to officers and employees as required by chapter 85.

d. Provide occupational disease compensation to employees as required by chapter 85A.

e. Co-operate with the industrial commissioner and comply with requirements imposed upon counties under chapters 86 and 87.

f. Comply with occupational safety and health standards as required by chapter 88.

g. Comply with wage payment requirements imposed upon counties under chapter 91A.

h. Comply with employment security requirements imposed upon counties under chapter 96.

i. Participate in the Iowa public employees' retirement system as required by chapter 97B.

j. Participate in the federal Social Security Act as required by chapter 97C.

k. Provide for support of the civil service commission for deputy sheriffs in accordance with section 341A.20.

l. Establish the compensation of deputies and assistants in accordance with section 331.904.

m. Provide a deferred compensation program for any employee, in accordance with section 509A.12.

n. Employ the blind, the partially blind, and the disabled in accordance with section 601D.2.

- o. Fix the compensation for services of county and township officers and employees if not otherwise fixed by state law.
- p. Perform other duties required by state law.
- 2. If the board wishes to participate in a program of interchange of employees, it shall do so in accordance with chapter 28D.
- 3. In exercising its power to resolve disputes with officers and employees, the board may arbitrate disputes in accordance with chapter 90.
- 4. If the liability of a county officer or employee in the performance of official duties is not fully indemnified by insurance, the board shall pay a loss for which the officer or employee is found liable beyond the amount of insurance, and may compromise and settle any such claim.
- 5. If a board provides group insurance for county employees, it shall also provide the insurance to a full-time county extension office assistant employed in the county, if the county is reimbursed for the premium by the county extension district.
- 6. In carrying out the requirement of section 331.322, subsection 1, the board may purchase an individual or a blanket surety bond insuring the fidelity of county officers and county employees who are accountable for county funds or property subject to the minimum surety bond requirements of chapter 64. An elected county officer is deemed to have furnished surety if the officer is covered by a blanket bond purchased as provided in this subsection.

(83 Acts, ch 186, § 10074, 10075, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 4 struck and following subsections renumbered

Subsection 5 (formerly 6) amended

(83 Acts, ch 14, § 4) SF 158

NEW subsection 6

331.361 County property.

- 1. Counties bounded by a body of water have concurrent jurisdiction over the entire body of water lying between them.
- 2. In disposing of an interest in real property by sale or exchange, by lease for a term of more than three years, or by gift, the following procedures shall be followed, except as otherwise provided by state law:
 - a. The board shall set forth its proposal in a resolution and shall publish notice of the time and place of a public hearing on the proposal, in accordance with section 331.305.
 - b. After the public hearing, the board may make a final determination on the proposal by resolution.
- 3. The board shall not dispose of real property by gift except for a public purpose, as determined by the board, in accordance with other state law. However, the board may dispose of real property for use in an Iowa homesteading program under section 220.14 for a nominal consideration.
- 4. On the application of a honorably discharged soldier, sailor, marine, or nurse of the army or navy of the United States who was disabled in the Philippine insurrection, China relief expedition, World War I, World War II, from December 7, 1941, to December 31, 1946, both dates inclusive, Korean Conflict, from June 25, 1950, to January 31, 1955, both dates inclusive, or Vietnam Conflict, from August 5, 1964, to June 30, 1973, both dates inclusive, the board shall reserve in the county courthouse a reasonable amount of space in the lobby to be used by the applicant rent-free as a stand for the sale of newspapers, tobaccos, and candies. If there is more than one applicant for reserved space, the board shall award the space at its discretion. The board shall prescribe the regulations by which a stand shall be operated.
- 5. The board shall:
 - a. Proceed upon a petition to establish a memorial hall or monument under chapter 37, as provided in that chapter.
 - b. Comply with section 103A.10, subsection 4, in the construction of new buildings.

- c. Proceed upon a petition to establish a county public hospital under chapter 347, as provided in that chapter.
 - d. Bid for real property at a tax sale as required under section 446.19, and handle the property in accordance with section 446.31 and chapter 569.
 - e. Require the conduction of a life cycle cost analysis for county facilities in accordance with chapter 470.
 - f. Comply with chapter 601C if food service is provided in public buildings.
 - g. Comply with section 601D.9 if curbs and ramps are constructed.
 - h. Provide facilities for the district court in accordance with section 602.1303.
 - i. Perform other duties required by state law.
6. In exercising its power to manage county real property, the board may lease land for oil and gas exploration as provided in section 84.21.
7. The board shall not lease, purchase, or construct a facility or building before considering the leasing of a vacant facility or building which is located in the county and owned by a public school corporation. The board may lease a facility or building owned by the public school corporation with an option to purchase the facility or building in compliance with sections 297.22 to 297.24. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the board at least thirty days before the termination of the lease.

(83 Acts, ch 186, § 10076, 10201) SF 495

Subsection 5, paragraph h amended

331.381 Duties relating to services. The board shall:

1. Proceed in response to a petition to establish a unified law enforcement district in accordance with sections 28E.21 to 28E.28A, or the board may proceed under those sections on its own motion.
2. Provide for disaster services and emergency planning in accordance with sections 29C.9 to 29C.13.
3. Proceed in response to a petition to establish a county conservation board in accordance with section 111A.2.
4. Comply with chapter 222, including but not limited to sections 222.13, 222.14, and 222.59 to 222.82, in regard to the care of mentally retarded persons.
5. Comply with chapters 227, 229 and 230, including but not limited to sections 227.11, 227.14, 229.42, 230.25, 230.27 and 230.35, in regard to the care of mentally ill persons.
6. Audit and pay the burial expense for indigent veterans, as provided in section 250.15.
7. Make determinations regarding emergency relief services in accordance with sections 251.5 and 251.6.
8. Administer general relief for the poor in accordance with chapter 252.
9. Handle complaints seeking medical care for indigent persons and pay for the care in accordance with chapter 255.
10. Comply with chapters 269 and 270 in regard to the payment of costs for pupils at the Iowa braille and sight-saving school and the school for the deaf.
11. Enforce the interstate library compact in accordance with sections 303A.9 to 303A.11.
12. Proceed in response to a petition to establish or end an airport commission in accordance with sections 330.17 to 330.20.
13. Proceed in response to a petition for a city hospital to become a county hospital in accordance with section 347.23.
14. Provide for the licensure, seizure, impoundment, and disposition of dogs in accordance with chapter 351.
15. Proceed in response to a petition to establish a county library district in accordance with sections 358B.2 to 358B.5, or a petition to provide library service by contract or to terminate the service under section 358B.18.

16. Establish a sanitary disposal project in accordance with sections 455B.302, 455B.305 and 455B.306.

17. Furnish a place for the confinement of prisoners as required in section 903.4, and in accordance with chapter 356 or 356A.

18. Perform other duties required by state law.

(83 Acts, ch 79, § 3) SF 118

Subsection 1 amended

331.382 Powers and limitations relating to services.

1. The board may exercise the following powers in accordance with the sections designated, and may exercise these or similar powers under its home rule powers or other provisions of law:

a. Establishment of parks outside of cities as provided in section 111.34.

b. Establishment of a water recreational area as provided in sections 111.59 to 111.78.

c. Establishment of a merged area hospital as provided in chapter 145A.

d. Acquisition and operation of a limestone quarry for the sale of agricultural lime, in accordance with chapter 202.

e. Provision of preliminary diagnostic evaluation before admissions to state mental health institutes as provided in sections 225C.14 through 225C.17.

f. Establishment of a community mental health center as provided in chapter 230A.

g. Establishment of a county care facility as provided in chapter 253, and sections 135C.23 and 135C.24.

h. Provision of relocation programs and payments as provided in sections 316.10 and 316.11.

i. Establishment of an airport commission as provided in sections 330.17 to 330.20.

j. Creation of an airport authority as provided in chapter 330A.

2. The power to establish reserve peace officers is subject to chapter 80D.

3. The power to legislate in regard to chemical substance abuse is subject to section 125.40.

4. The power to establish a county hospital is subject to the licensing requirements of chapter 135B and the power to establish a county health care facility is subject to the licensing requirements of chapter 135C.

5. The board shall not regulate, license, inspect, or collect license fees from food service establishments except as provided in chapter 170A or from hotels except as provided in chapter 170B or for food and beverage vending machines except as provided in section 191A.14.

6. The power to operate juvenile detention and shelter care homes is subject to approval of the homes by the commissioner of the department of human services or the commissioner's designee, as provided in section 232.142.

7. If a law library is provided in the county courthouse, judges of the district court of the county shall supervise and control the law library.

8. The board is subject to chapter 357 to 358, 455, 456 to 467 or 467C, as applicable, in acting relative to a special district authorized under any of those chapters.

However, the board may assume and exercise the powers and duties of a governing body under chapter 357, 357A, 357B, 358 or 462 if a governing body established under one of those chapters has insufficient membership to perform its powers and duties, and the board, upon petition of the number of property owners within a proposed district and filing of a bond as provided in section 357A.2, may establish a service district within the unincorporated area of the county and exercise within the district the powers and duties granted in chapter 357, 357A, 357B, 357C, 358, 359, 384, division IV or 462.

9. The power to establish and administer an air pollution control program in lieu of state administration is subject to sections 455B.144 and 455B.145.

(83 Acts, ch 101, § 76) SF 136

Subsection 1, paragraph e amended

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 6 amended

DIVISION IV

POWERS AND DUTIES OF THE BOARD RELATING TO COUNTY FINANCES

PART 1

GENERAL FINANCIAL POWERS AND DUTIES

331.401 Duties relating to finances.

1. The board shall:
 - a. Audit expenses charged to the county for the annual examination by the auditor of state and approve or object to the expenses as provided in section 11.21.
 - b. Establish budgets for the farm-to-market road fund and the secondary road fund in accordance with sections 309.10 and 309.93 to 309.97.
 - c. Provide for payment of a portion of the cost of care, maintenance, and treatment of substance abusers who are residents of the county, as provided in sections 125.45, 125.47 and 125.51.
 - d. Pay expenses of administration of juvenile justice, attributable to the county under section 232.141.
 - e. Provide for the expense of persons committed to the county jail or a regional detention facility in accordance with sections 356.15 and 356.45.
 - f. Adopt resolutions authorizing the county assessor to provide forms for homestead exemption claimants as provided in section 425.2 and military service tax exemptions as provided in section 427.6.
 - g. Examine and allow or disallow claims for homestead exemption in accordance with section 425.3 and claims for military service tax exemption in accordance with chapter 426A and sections 427.3 to 427.6. The board, by a single resolution, may allow or disallow the exemptions recommended by the assessor.
 - h. Hear appeals relating to the agricultural land tax credit in accordance with section 426.6.
 - i. Order the suspension of property taxes of certain persons in accordance with section 427.9.
 - j. Approve or deny an application for a property tax exemption for impoundment structures, as provided in section 427.1, subsection 33.
 - k. Serve on the conference board as provided in section 441.2 and carry out duties relating to platting for assessment and taxation as provided in sections 441.67 and 441.70.
 - l. Levy taxes as certified to it by tax-certifying bodies in the county, in accordance with the statutes authorizing the levies and in accordance with chapter 24 and sections 444.1 to 444.8, and levy taxes as required in chapters 430A, 433, 434, 436, 437 and 438.
 - m. Carry out duties in regard to the collection of taxes as provided in sections 445.16, 445.19, 445.60, and 445.62.
 - n. Apportion taxes upon receipt of a petition, in accordance with sections 449.1 to 449.3.
 - o. Comply with chapters 452 and 453 in the management of public funds.
 - p. Allocate payments from flood control projects as provided in sections 467B.13 and 467B.14.
 - q. Examine and settle all accounts of the receipts and expenditures of the county and all claims against the county, except as otherwise provided by state law.
 - r. Require a local historical society to submit to it a proposed budget including the amount of available funds and estimated expenditures, as a prerequisite to receiving funds. A local historical society receiving funds shall present to the board an annual report describing in detail its use of the funds received.
 - s. Perform other financial duties as required by state law.
2. The board shall not pay membership dues for a county officers association in this state other than the Iowa state association of counties or an organization affiliated with it. This subsection does not prohibit expenditures for organizations with which the Iowa state association or its affiliates are affiliated.

3. The board shall not pay bounties on crows, rattlesnakes, foxes, or wolves other than coyotes.

(83 Acts, ch 123, § 132—135, 209) HF 628

Subsection 1, paragraph b amended

Subsection 1, paragraph e struck and remaining paragraphs relettered

Subsection 1, paragraph l (formerly m) amended

NEW paragraph r added to subsection 1

331.402 Powers relating to finances — limitations.

1. The payment of county obligations by anticipatory warrants is subject to chapters 74 and 74A and other applicable state law. Anticipatory warrants drawn on the secondary road fund are also subject to sections 309.46 to 309.55.

2. The board may:

a. Require a person who is not a part of county government but is receiving county funds to submit to audit by auditors chosen by the county. The person shall make available all pertinent records needed for the audit.

b. Enter into an agreement with the state department of human services for assistance in accordance with section 249A.12.

c. Levy within a township at a rate not to exceed the rate permitted under sections 359.30 and 359.33 for the care and maintenance of cemeteries, if the township officials fail to levy the tax as needed.

d. Authorize the county auditor to issue warrants for certain purposes as provided in section 331.506, subsection 3.

e. Impose a hotel and motel tax in accordance with chapter 422A.

f. Order the suspension of property taxes or cancel and remit the taxes of certain persons as provided in sections 427.8 and 427.10.

g. Provide for a partial exemption from property taxation in accordance with chapter 427B.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, paragraph b amended

331.403 Annual financial report.

1. Not later than October 1 of each year, a county shall prepare an annual financial report showing for each county fund the financial condition as of June 30 and the results of operations for the year then ended. Copies of the report shall be maintained as a public record at the auditor's office and shall be furnished to the county finance committee and to the auditor of state. A summary of the report, in a form prescribed by the county finance committee, shall be published by each county not later than October 1 of each year in one or more newspapers which meet the requirements of section 618.14.

2. Beginning with the fiscal year ending June 30, 1985, the annual financial report required in subsection 1 shall be prepared in conformity with generally accepted accounting principles.

3. The county finance committee may waive the application of subsection 2 to a county for a one-year period, if evidence is presented that substantial progress is being made towards removing the cause for the need of the waiver. The committee shall not grant a waiver for more than three successive years to the same county.

(83 Acts, ch 123, § 2, 209) HF 628

Effective for budgets and accounting procedures for fiscal year beginning July 1, 1984, and otherwise effective except as necessary to implement budgets for fiscal year beginning July 1, 1983

NEW section

331.404 County indemnification fund.

1. A county indemnification fund is created in the office of the treasurer of state, to be used to indemnify and pay on behalf of a county officer, township trustee, deputy, assistant, or employee of the county or the township, all sums that the person is legally obligated to pay because of an error or omission in the performance of official duties, except that the first five hundred dollars of each claim shall not be paid from this fund.

2. The fund does not relieve an insurer issuing insurance under section 613A.7 from paying a loss incurred. An insurer shall not be subrogated to the assets of the fund regardless of provisions in a policy of insurance.

3. If the balance in the fund on September 30 is less than six hundred thousand dollars, the treasurer of state shall notify the board of each county to levy one-half cent per thousand dollars on the assessed value of all taxable property in the county.

4. Not later than December 15 or June 15 of a year in which the tax is collected, the treasurer shall transmit the amount of the tax levied and collected to the treasurer of state who shall credit it to the county indemnification fund. The treasurer of state shall invest moneys in the fund in the same manner as other public funds and shall credit interest received from that investment to the county indemnification fund.

5. A claim for an act or omission of a county officer, township trustee, or deputy, assistant, or employee of a county or township, which occurred after July 1, 1978, shall be processed in accordance with chapter 613A and paid from the fund, except that payment of a claim, except a final judgment, in excess of fifteen hundred dollars must have the unanimous approval of all members of the state appeal board, the attorney general, and the district court of Polk county.

6. If a final judgment is obtained against a county officer, township trustee, or deputy, assistant, or employee of a county or township, for an act or omission which occurred subsequent to July 1, 1978, and which is payable from the county indemnification fund, the county attorney shall ascertain if an insurance policy exists indemnifying the person against the judgment or any part of it. If no insurance exists, or if the judgment exceeds the limits of insurance, the county attorney shall submit a claim to the state comptroller against the county indemnification fund on behalf of the plaintiff for the amount of the judgment exceeding the amount recoverable by reason of the insurance. The state comptroller shall promptly issue a warrant payable to the plaintiff for that amount, and the treasurer of state shall pay the warrant. Payment discharges the person from liability for that act or omission.

(83 Acts, ch 123, § 3, 207) HF 628

Transfers from former county indemnification fund; 83 Acts, ch 123, § 207 (HF 628)

NEW section

PART 2 COUNTY LEVIES AND FUNDS

This part, consisting of sections 331.421—331.429 was repealed by 83 Acts, ch 123, § 206, 209 (HF 628) and replaced by a new part 2, consisting of sections 331.421—331.437 which follows. The repeals and new sections are effective for budgets and accounting procedures for the fiscal year beginning July 1, 1984, and otherwise effective except as necessary to implement budgets for fiscal year beginning July 1, 1983.

331.421 Mandatory tax levies. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.422 Permissive tax levies. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

Countries permitted to levy for services provided pursuant to section 346A.1, subsection 3, for fiscal year beginning July 1, 1983, under 83 Acts, ch 12, § 3, 4 (SF 15) which was effective April 12, 1983

331.423 Excess levy election. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.424 General fund. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.425 Mandatory county funds. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.426 Permissive county funds. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.427 County indemnification fund. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.428 Debt service fund. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.429 Joint county indigent defense fund. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

PART 2

COUNTY LEVIES, FUNDS, BUDGETS, AND EXPENDITURES

Effective for budgets and accounting procedures for fiscal year beginning July 1, 1984, and otherwise effective except as necessary to implement budgets for fiscal year beginning July 1, 1983; 83 Acts, ch 123, § 209 (HF 628)

County finance committee to report effect on county finances and administration on or before December 31, 1986; 83 Acts, ch 123, § 210 (HF 628)

331.421 Definitions. As used in this part, unless the context otherwise requires:

1. "General county services" means the services which are primarily intended to benefit all residents of a county, including secondary road services, but excluding debt service and services financed by other statutory funds.
2. "Rural county services" means the services which are primarily intended to benefit those persons residing in the county outside of incorporated areas, including secondary road services, but excluding debt service and services financed by other statutory funds.
3. "Secondary road services" means the services related to secondary road construction and maintenance, excluding debt service and services financed by other statutory funds.
4. "Debt service" means expenditures for servicing the county's debt.
5. "Basic levy" means a levy authorized and limited by section 331.423 for general county services and rural county services.
6. "Supplemental levy" means a levy authorized and limited by section 331.424 for general county services and rural county services.
7. "Debt service levy" means a levy authorized and limited by section 331.422, subsection 3.
8. "Fiscal year" means the period of twelve months beginning July 1 and ending on the following June 30.
9. "Committee" means the county finance committee established in chapter 333A.

(83 Acts, ch 123, § 5, 209) HF 628

NEW section

331.422 County property tax levies. Subject to this section and sections 331.423 through 331.426 or as otherwise provided by state law, the board of each county shall certify property taxes annually at its March session to be levied for county purposes as follows:

1. Taxes for general county services shall be levied on all taxable property within the county.
2. Taxes for rural county services shall be levied on all taxable property not within incorporated areas of the county.
3. Taxes in the amount necessary for debt service shall be levied on all taxable property within the county, except as otherwise provided by state law.
4. Other taxes shall be levied as provided by state law.

(83 Acts, ch 123, § 6, 209) HF 628

NEW section

331.423 Basic levies — maximums. Annually, the board may certify basic levies, subject to the following limits:

1. For general county services, three dollars and fifty cents per thousand dollars of the assessed value of all taxable property in the county.
2. For rural county services, three dollars and ninety-five cents per thousand dollars of the assessed value of taxable property in the county outside of incorporated areas.

(83 Acts, ch 123, § 7, 209) HF 628

NEW section

331.424 Supplemental levies. To the extent that the basic levies are insufficient to meet the county's needs for the following services, the board may certify supplemental levies as follows:

1. For general county services, an amount sufficient to pay the charges for the following:
 - a. To the extent that the county is obligated by statute to pay the charges for:
 - (1) Care and treatment of patients by a state mental health institute.
 - (2) Care and treatment of patients by either of the state hospital schools or by

any other facility established under chapter 222 and diagnostic evaluation under section 222.31.

(3) Care and treatment of patients under chapter 225.

(4) Care and treatment of persons at the alcoholic treatment center at Oakdale or facilities provided under chapter 125. However, the county may require that an admission to a center or other facility shall be reported to the board by the center or facility within five days as a condition of the payment of county funds for that admission.

(5) Care of children admitted or committed to the Iowa juvenile home at Toledo.

(6) Clothing, transportation, medical, or other services provided persons attending the Iowa braille and sight-saving school, the Iowa school for the deaf, or the state hospital-school for severely handicapped children at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.4 through 270.7.

b. To the extent that the board deems it advisable to pay, the charges for professional evaluation, treatment, training, habilitation, and care of persons who are mentally retarded, autistic persons, or persons who are afflicted by any other developmental disability, at a suitable public or private facility providing inpatient or outpatient care in the county. As used in this paragraph:

(1) "*Developmental disability*" has the meaning assigned that term by 42 U.S.C. sec. 6001(7) (1976), Supp. II, 1978, and Supp. III, 1979.

(2) "*Autistic persons*" means persons, regardless of age, with severe communication and behavior disorders that became manifest during the early stages of childhood development and that are characterized by a severely disabling inability to understand, communicate, learn, and participate in social relationships. "Autistic persons" includes but is not limited to those persons afflicted by infantile autism, profound aphasia, and childhood psychosis.

c. Care and treatment of persons placed in the county hospital, county care facility, a health care facility as defined in section 135C.1, subsection 4, or any other public or private facility, which placement is in lieu of admission or commitment to or is upon discharge, removal, or transfer from a state mental health institute, hospital-school, or other facility established pursuant to chapter 222.

d. Amounts budgeted by the board for the cost of establishment and initial operation of a community mental health center in the manner and subject to the limitations provided by state law.

e. Foster care and related services provided under court order to a child who is under the jurisdiction of the juvenile court, including court-ordered costs for a guardian ad litem under section 232.71.

f. The care, admission, commitment, and transportation of mentally ill patients in state hospitals, to the extent that expenses for these services are required to be paid by the county, including compensation for the advocate appointed under section 229.19.

g. Amounts budgeted by the board for mental health services or mental retardation services furnished to persons on either an outpatient or inpatient basis, to a school or other public agency, or to the community at large, by a community mental health center or other suitable facility located in or reasonably near the county, provided that services meet the standards of the mental health and mental retardation commission and are consistent with the annual plan for services approved by the board.

h. Reimbursement on behalf of mentally retarded persons under section 249A.12.

i. Elections, and voter registration pursuant to chapter 48.

j. Employee benefits under chapters 96, 97B, and 97C, which are associated with salaries for general county services.

k. Joint county and city building authorities established under section 346.27, as provided in subsection 22 of that section.

l. Tort liability insurance to cover the liability of the county or its officers as provided in chapter 613A.

m. The maintenance and operation of the courts, including but not limited to the salary and expenses of the clerk of the district court, deputy clerks and other employees of the clerk's office, and bailiffs, establishment and operation of a public defender's office, court costs if the prosecution fails or if the costs cannot be collected from the person liable, costs and expenses of prosecution under section 189A.17, salaries and expenses of juvenile probation officers under chapter 231, court-ordered costs in domestic abuse cases under section 236.5, the county's expense for confinement of prisoners under chapter 356A, temporary assistance to the county attorney, county contributions required under section 602.34, reimbursement for judicial magistrates under section 602.42, claims filed under section 622.93, interpreters' fees under section 622B.7, uniform citation and complaint supplies under section 805.6, and witness fees under section 819.3.

n. Court-ordered costs of conciliation procedures under section 598.16.

o. Establishment and maintenance of a joint county indigent defense fund pursuant to an agreement under section 28E.19.

The board may require a public or private facility, as a condition of receiving payment from county funds for services it has provided, to furnish the board with a statement of the income, assets, and legal residence including township and county of each person who has received services from that facility for which payment has been made from county funds under paragraphs "a" through "h". However, the facility shall not disclose to anyone the name or street or route address of a person receiving services for which commitment is not required, without first obtaining that person's written permission.

Parents or other persons may voluntarily reimburse the county or state for the reasonable cost of caring for a patient or an inmate in a county or state facility.

2. For rural county services, an amount sufficient to pay the charges for the following:

a. Employee benefits under chapters 96, 97B, and 97C, which are associated with salaries for rural county services.

b. An aviation authority under chapter 330A, to the extent that the county contributes to the authority under section 330A.15.

(83 Acts, ch 123, § 8, 209) HF 628

NEW section

331.425 Additions to levies — special levy election. The board may certify an addition to a levy in excess of the amounts otherwise permitted under sections 331.423, 331.424, and 331.426 if the proposition to certify an addition to a levy has been submitted at a special levy election and received a favorable majority of the votes cast on the proposition. A special levy election is subject to the following:

1. The election shall be held only if the board gives notice to the county commissioner of elections, not later than February 15, that the election is to be held.

2. The election shall be held on the second Tuesday in March and be conducted by the county commissioner of elections in accordance with the law.

3. The proposition to be submitted shall be substantially in the following form:

"Vote for only one of the following:

Shall the county of _____ levy an additional tax at a rate of \$ _____ each year for _____ years beginning next July 1 in excess of the statutory limits otherwise applicable for the (general county services or rural county services) fund?

or

The county of _____ shall continue the (general county services or rural county services fund) under the maximum rate of \$ _____."

4. The canvass shall be held beginning at one o'clock on the second day which is not a holiday following the special levy election.

5. Notice of the proposed special levy election shall be published at least twice in a newspaper as specified in section 331.305 prior to the date of the special levy election. The first notice shall appear as early as practicable after the board has decided to seek a special levy.

(83 Acts, ch 123, § 9, 209) HF 628

NEW section

331.426 Additions to basic levies. If a county has unusual circumstances, creating a need for additional property taxes for general county services or rural county services in excess of the amount that can be raised by the levies otherwise permitted under sections 331.423 through 331.425, the board may certify additions to each of the basic levies as follows:

1. The basis for justifying an additional property tax under this section must be one or more of the following:

a. An unusual increase in population as determined by the preceding certified federal census.

b. A natural disaster or other emergency.

c. Unusual problems relating to major new functions required by state law.

d. Unusual staffing problems.

e. Unusual need for additional moneys to permit continuance of a program which provides substantial benefit to county residents.

f. Unusual need for a new program which will provide substantial benefit to county residents, if the county establishes the need and the amount of necessary increased cost.

g. A reduced or unusually low growth rate in the property tax base of the county.

2. The public notice of a hearing on the county budget required by section 331.434, subsection 3, shall include the following additional information for the applicable class of services:

a. A statement that the accompanying budget summary requires a proposed basic property tax rate exceeding the maximum rate established by the general assembly.

b. A comparison of the proposed basic tax rate with the maximum basic tax rate, and the dollar amount of the difference between the proposed rate and the maximum rate.

c. A statement of the major reasons for the difference between the proposed basic tax rate and the maximum basic tax rate.

The information required by this subsection shall be published in a conspicuous form as prescribed by the committee.

(83 Acts, ch 123, § 10, 209) HF 628

NEW section

331.427 General fund.

1. Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 84.21, 98.35, 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, 144.46, 176A.8, 247A.10, 321.105, 321.152, 321.192, 321.485, 321G.7, 331.554, subsection 6, 331.703, subsection 6, 341A.20, 364.3, 368.21, 422.65, 422.100, 422A.2, 428A.8, 430A.3, 433.15, 434.19, 441.68, 445.52, 445.57, 533.24, 556B.1, 567.10, 583.6, 809.6, 906.17, and 911.3, and the following:

a. License fees for business establishments.

b. Moneys remitted for fines and forfeited bail under section 602.55, except those directed to be placed in the school fund.

c. Other amounts in accordance with state law.

2. The board may make appropriations from the general fund for general county services, including but not limited to the following:

a. Expenses of a joint disaster services and emergency planning administration under section 29C.9.

b. Development, operation, and maintenance of memorial buildings or monuments under chapter 37.

c. Purchase of voting machines under chapter 52.

d. Expenses incurred by the county conservation board established under chapter 111A, in carrying out its powers and duties.

e. Local health services. The county auditor shall keep a complete record of

appropriations for local health services and shall issue warrants on them only on requisition of the local or district health board.

- f. Expenses relating to county fairs, as provided in chapter 174.
 - g. Maintenance of a juvenile detention home under chapter 232.
 - h. Relief of veterans under chapter 250.
 - i. Care and support of the poor under chapter 252.
 - j. Operation, maintenance, and management of a health center under chapter 346A.
 - k. Payment of bounties on wild animals.
 - l. For the use of a nonprofit historical society organized under chapter 504 or 504A.
 - m. Services listed in section 331.424, subsection 1 and section 331.554.
3. Appropriations specifically authorized to be made from the general fund shall not be made from the rural services fund, but may be made from other sources.
- (83 Acts, ch 123, § 11, 209) HF 628
NEW section

331.428 Rural services fund.

1. Except as otherwise provided by state law, county revenues from taxes and other sources for rural county services shall be credited to the rural services fund of the county.

2. The board may make appropriations from the rural services fund for rural county services, including but not limited to the following:

- a. Road clearing, weed eradication, and other expenses incurred under chapter 317.
- b. Maintenance of a county library and library contracts under chapter 358B.
- c. Planning, operating, and maintaining sanitary disposal projects under chapter 455B.
- d. Services listed under section 331.424, subsection 2.

3. Appropriations specifically authorized to be made from the rural services fund shall not be made from the general fund, but may be made from other sources.

(83 Acts, ch 123, § 12, 209) HF 628
NEW section

331.429 Secondary road fund.

1. Except as otherwise provided by state law, county revenues for secondary road services shall be credited to the secondary road fund, including the following:

- a. Transfers from the general fund not to exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county.
- b. Transfers from the rural services fund not to exceed in any year the dollar equivalent of a tax of three dollars and three-eighths cents per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

c. Moneys allotted to the county from the state road use tax fund.

d. Moneys provided by individuals from their own contributions for the improvement of any secondary road.

e. Other moneys dedicated to this fund by law including but not limited to sections 306.15, 309.52, 311.23, 311.29, and 313.28.

2. The board may make appropriations from the secondary road fund for the following secondary road services:

- a. Construction and reconstruction of secondary roads and costs incident to the construction and reconstruction.
- b. Maintenance and repair of secondary roads and costs incident to the maintenance and repair.
- c. Payment of all or part of the cost of construction and maintenance of bridges

in cities having a population of eight thousand or less and all or part of the cost of construction of roads which are located within cities of less than four hundred population and which lead to state parks.

d. Special drainage assessments levied on account of benefits to secondary roads.

e. Payment of interest and principal on bonds of the county issued for secondary roads, bridges, or culverts constructed by the county.

f. A legal obligation in connection with secondary roads and bridges, which obligation is required by law to be taken over and assumed by the county.

g. Secondary road equipment, materials, and supplies, and garages or sheds for their storage, repair, and servicing.

h. Assignment or designation of names or numbers to roads in the county and erection, construction, or maintenance of guideposts or signs at intersections of roads in the county.

i. The services provided under sections 306.15, 309.18, 309.52, 311.7, 311.23, 313A.23, 316.14, 321.426, 455.50, 455.118, 460.7, and 460.8, or other state law relating to secondary roads.

(83 Acts, ch 123, § 13, 209) HF 628

NEW section

331.430 Debt service fund.

1. Except as otherwise provided by state law, county revenues from taxes and other sources for debt service shall be credited to the debt service fund of the county. However, moneys pledged or available to service general obligation bonds, and received from sources other than property taxes, shall be deposited in the fund from which the debt is to be retired.

2. The board may make appropriations from the debt service fund for the following debt service:

a. Judgments against the county, except those authorized by law to be paid from sources other than property tax.

b. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the county except those serviced through the secondary road services levies.

3. A tax levied for the debt service fund is not invalid if it raises moneys in excess of those needed for a specific purpose. Only excess moneys remaining after retirement of all indebtedness payable from the debt service fund may be transferred from the fund to the fund most closely related to the project for which the indebtedness arose, or to the general fund, subject to the terms of the original bond issue.

4. When the amount in the hands of the treasurer belonging to the debt service fund, after setting aside the sum required to pay interest maturing before the next levy, is sufficient to redeem one or more bonds which by their terms are subject to redemption, the treasurer shall notify the owner of the bonds. If the bonds are not presented for payment or redemption within thirty days after the date of notice, the interest on the bonds shall cease, and the amount due shall be set aside for payment when presented. Redemptions shall be made in the order of the bond numbers.

(83 Acts, ch 123, § 14, 209) HF 628

NEW section

331.431 Additional funds. A county may establish other funds in accordance with generally accepted accounting principles. Taxes may be levied for those funds as provided by state law. The condition and operations of each fund shall be included in the annual financial report required in section 331.403.

(83 Acts, ch 123, § 15, 209) HF 628

NEW section

331.432 Interfund transfers. It is unlawful to make permanent transfers of money between the general fund and the rural services fund. Moneys credited to the secondary road fund for the construction and maintenance of secondary roads shall

not be transferred. Other transfers, including transfers from the debt service fund made in accordance with section 331.430, and transfers from the general or rural services fund to the secondary road fund in accordance with section 331.429, subsection 1, paragraphs "a" and "b", are not effective until authorized by resolution of the board. The transfer of inactive funds is subject to section 24.21.

(83 Acts, ch 123, § 16, 209) HF 628

NEW section

331.433 Estimates submitted by departments.

1. On or before January 15 of each year, each elective or appointive officer or board, except tax certifying boards as defined in section 24.2, subsection 3, having charge of a county office or department, shall prepare and submit to the auditor or other official designated by the board an estimate, itemized in the detail required by the board and consistent with existing county accounts, showing all of the following:

- a. The proposed expenditures of the office or department for the next fiscal year.
- b. An estimate of the revenues, except property taxes, to be collected for the county by the office during the next fiscal year.

2. On or before January 20 of each year, the auditor or other designated official shall compile the various office and department estimates and submit them to the board. In the preparation of the county budget the board may consult with any officer or department concerning the estimates and requests and may adjust the requests for any county office or department.

(83 Acts, ch 123, § 17, 209) HF 628

NEW section

331.434 County budget. Annually, the board of each county, subject to sections 331.423 through 331.426 and other applicable state law, shall prepare and adopt a budget, certify taxes, and provide appropriations as follows:

1. The budget shall show the amount required for each class of proposed expenditures, a comparison of the amounts proposed to be expended with the amounts expended for like purposes for the two preceding years, the revenues from sources other than property taxation, and the amount to be raised by property taxation, in the detail and form prescribed by the committee.

2. Not less than twenty days before the date that a budget must be certified under section 24.17 and not less than ten days before the date set for the hearing under subsection 3 of this section, the board shall file the budget with the auditor. The auditor shall make available a sufficient number of copies of the budget to meet the requests of taxpayers and organizations and have them available for distribution at the courthouse or other places designated by the board.

3. The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers which meet the requirements of section 618.14. A summary of the proposed budget, in the form prescribed by the committee, shall be included in the notice. Proof of publication shall be filed with and preserved by the auditor. A levy is not valid unless and until the notice is published and filed.

4. At the hearing, a resident or taxpayer of the county may present to the board objections to or arguments in favor of any part of the budget.

5. After the hearing, the board shall adopt by resolution a budget and certificate of taxes for the next fiscal year and shall direct the auditor to properly certify and file the budget and certificate of taxes as adopted. The board shall not adopt a tax in excess of the estimate published, except a tax which is approved by a vote of the people, and a greater tax than that adopted shall not be levied or collected. A county budget and certificate of taxes adopted for the following fiscal year becomes effective on the first day of that year.

6. The board shall appropriate, by resolution, the amounts deemed necessary for each of the different county officers and departments during the ensuing fiscal year.

but may be provided by resolution at a regular meeting of the board, as long as each class of proposed expenditures contained in the budget summary published under subsection 3 of this section is not increased. However, decreases in appropriations for a county officer or department of more than ten percent or five thousand dollars, whichever is greater, shall not be effective unless the board sets a time and place for a public hearing on the proposed decrease and publishes notice of the hearing not less than ten nor more than twenty days prior to the hearing in one or more newspapers which meet the requirements of section 618.14.

(83 Acts, ch 123, § 18, 209) HF 628

NEW section

331.435 Budget amendment. The board may amend the adopted county budget, subject to sections 331.423 through 331.426 and other applicable state law, to permit increases in any class of proposed expenditures contained in the budget summary published under section 331.434, subsection 3.

The board shall prepare and adopt a budget amendment in the same manner as the original budget, as provided in section 331.434, and the amendment is subject to protest as provided in section 331.436, except that the committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest. A county budget for the ensuing fiscal year shall be amended by May 31 to allow time for a protest hearing to be held and a decision rendered before June 30. An amendment of a budget after May 31 which is properly appealed but without adequate time for hearing and decision before June 30 is void.

(83 Acts, ch 123, § 19, 209) HF 628

NEW section

331.436 Protest. Protests to the adopted budget must be made in accordance with sections 24.27 through 24.32 as if the county were the municipality under those sections.

(83 Acts, ch 123, § 20, 209) HF 628

NEW section

331.437 Expenditures exceeding appropriations. It is unlawful for a county official, the expenditures of whose office come under this part, to authorize the expenditure of a sum for the official's department larger than the amount which has been appropriated for that department by the board.

A county official in charge of a department or office who violates this law is guilty of a simple misdemeanor. The penalty in this section is in addition to the liability imposed in section 331.476.

(83 Acts, ch 123, § 21, 209) HF 628

NEW section

331.441 Definitions.

1. As used in this part, the use of the conjunctive "and" includes the disjunctive "or" and the use of the disjunctive "or" includes the conjunctive "and," unless the context clearly indicates otherwise.

2. As used in this part, unless the context otherwise requires:

a. "*General obligation bond*" means a negotiable bond issued by a county and payable from the levy of ad valorem taxes on all taxable property within the county through its debt service fund which is required to be established by section 331.430.

b. "*Essential county purpose*" means any of the following:

(1) Voting machines or an electronic voting system.

(2) Bridges on highways or parts of highways which are located along the corporate limits of cities and are partly within and partly without the limits and are in whole or in part secondary roads.

(3) Sanitary disposal projects as defined in section 455B.301.

(4) Works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner, for the collection and disposal of solid waste, and for the collection and disposal of surface waters and streams, including the planning, acquisition, leasing, construction, reconstruction, extension,

remodeling, improvement, repair, equipping, maintenance, and operation of the works and facilities.

(5) Public buildings, including the site or grounds of, and the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the cost does not exceed the following limits:

(a) Two hundred thousand dollars in a county having a population of twenty-five thousand or less.

(b) Two hundred fifty thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(c) Three hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(d) Four hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(e) Five hundred thousand dollars in a county having a population of more than two hundred thousand.

(6) Funding or refunding outstanding indebtedness if the outstanding indebtedness exceeds five thousand dollars on the first day of January, April, June or September in any year. However, a county shall not levy taxes to repay refunding bonds for bridges on property within cities.

(7) Enlargement and improvement of a county hospital acquired and operated under chapter 347A, subject to a maximum of two percent of the assessed value of the taxable property in the county. However, notice of the proposed bond issue shall be published once each week for two consecutive weeks and if, within twenty days following the date of the first publication, a petition requesting an election on the proposal and signed by qualified voters of the county equal to at least twenty percent of the votes cast at the preceding election for governor is filed with the county auditor, the proposal is subject to the election requirements in section 331.442, subsections 2, 3 and 4 for general county purpose bonds.

c. "General county purpose" means any of the following:

(1) A memorial building or monument to commemorate the service rendered by soldiers, sailors, and marines of the United States, including the acquisition of ground and the purchase, erection, construction, reconstruction, and equipment of the building or monument, to be managed by a commission as provided in chapter 37.

(2) Acquisition and development of land for a public museum, park, parkway, preserve, playground, or other recreation or conservation purpose to be managed by the county conservation board. The board may submit a proposition under this subparagraph only upon receipt of a petition from the county conservation board asking that bonds be issued for a specified amount.

(3) The building and maintenance of a bridge over state boundary line streams. The board shall submit a proposition under this subparagraph to an election upon receipt of a petition which is valid under section 331.306.

(4) Contributions of money to the state department of transportation to help finance the construction of toll bridges across navigable rivers constituting boundaries between the county and an adjoining state.

(5) An airport, including establishment, acquisition, equipment, improvement, or enlargement of the airport.

(6) A joint city-county building, established by contract between the county and its county seat city, including purchase, acquisition, ownership, and equipment of the county portion of the building.

(7) A county health center as defined in section 346A.1, including additions and facilities for the center and including the acquisition, reconstruction, completion, equipment, improvement, repair, and remodeling of the center, additions, or facilities. Bonds for the purpose specified in this subparagraph are exempt from taxation by the state and the interest on the bonds is exempt from state income taxes.

(8) A county public hospital, including procuring a site and the erection, equip-

ment, and maintenance of the hospital, and additions to the hospital, subject to the levy limits in section 347.7.

(9) Public buildings, including the site or grounds of, the erection, equipment, remodeling or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the cost exceeds the limits stated in subsection 2, paragraph "b", subparagraph (5).

(10) The undertaking of any project jointly or in co-operation with any other governmental body which, if undertaken by the county alone, would be for a general county purpose, including the joint purchase, acquisition, construction, ownership, or control of any real or personal property.

(11) Any other facilities or improvements which are necessary for the operation of the county or the health and welfare of its citizens.

3. The "cost" of any project for an essential county purpose or general county purpose includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights of way, supervision, inspection, testing, publications, printing and sale of bonds, and provisions for contingencies.

(83 Acts, ch 123, § 136—139, 209) HF 628

Subsection 2, paragraph a; paragraph b, subparagraphs (3) and (5); and paragraph c, subparagraphs (1), (2), (3) and (9) amended

331.447 Taxes to pay bonds.

1. Taxes for the payment of general obligation bonds shall be levied in accordance with chapter 76, and the bonds are payable from the levy of unlimited ad valorem taxes on all the taxable property within the county through its debt service fund required by section 331.430 except that:

a. The amount estimated and certified to apply on principal and interest for any one year shall not exceed the maximum rate of tax, if any, provided by this division for the purpose for which the bonds were issued. If general obligation bonds are issued for different categories, as provided in section 331.445, the maximum rate of levies, if any, for each purpose shall apply separately to that portion of the bond issue for that category and the resolution authorizing the bond issue shall clearly set forth the annual debt service requirements with respect to each purpose in sufficient detail to indicate compliance with the rate of tax levy, if any.

b. The amount estimated and certified to apply on principal and interest for any one year may only exceed the statutory rate of levy limit, if any, by the amount that the qualified electors of the county have approved at a special election, which may be held at the same time as the general election and may be included in the proposition authorizing the issuance of bonds, if an election on the proposition is necessary, or may be submitted as a separate proposition at the same election or at a different election. Notice of the election shall be given as specified in section 331.305. If the proposition includes issuing bonds and increasing the levy limit, it shall be in substantially the following form:

"Shall the county of, state of Iowa, be authorized to (here state purpose of project) at a total cost not exceeding \$..... and issue its general obligation bonds in an amount not exceeding \$..... for that purpose, and be authorized to levy annually a tax not exceeding dollars and cents per thousand dollars of the assessed value of the taxable property within the county to pay the principal of and interest on the bonds?"

If the proposition includes only increasing the levy limit it shall be in substantially the following form:

"Shall the county of, state of Iowa, be authorized to levy annually a tax not exceeding dollars and cents per thousand dollars of the assessed value of the taxable property within the county to pay principal and interest on the bonded indebtedness of the county for the purpose of"?

2. A statutory or voted tax levy limitation does not limit the source of payment of bonds and interest, but only restricts the amount of bonds which may be issued.

3. For the sole purpose of computing the amount of bonds which may be issued as the result of the application of a statutory or voted tax levy limitation, all interest on the bonds in excess of that accruing in the first twelve months may be excluded from the first annual levy of taxes, so that the need for including more than one year's interest on the first annual levy of taxes to pay the bonds and interest does not operate to further restrict the amount of bonds which may be issued, and in certifying the annual levies, the first annual levy of taxes shall be sufficient to pay all principal of and interest on the bonds becoming due prior to the next succeeding annual levy and the full amount of the annual levy shall be entered for collection as provided in chapter 76.

(83 Acts, ch 123, § 140, 209) HF 628
 Subsection 1, unnumbered paragraph 1 amended

331.471 County enterprise commissions.

1. As used in this section, "commission" means a commission established under this section to manage a county enterprise or combined county enterprise. Upon receipt of a valid petition as defined in section 331.306 requesting that a proposal for establishment or discontinuance of a commission be submitted to the voters, or upon its own motion, the board shall submit the proposal at the next general election or at an election which includes a proposal to establish, acquire, lease, or dispose of the county enterprise or combined county enterprise.

2. A proposal for the establishment of a county enterprise commission shall specify a commission of either three or five members. If a majority of those voting approves the proposal, the board shall proceed as proposed. If a majority of those voting does not approve the proposal, the same or a similar proposal shall not be submitted to the voters of the county and the board shall not establish a commission for the same purpose for at least four years from the date of the election at which the proposal was defeated.

3. If a proposal to discontinue a commission receives a favorable majority vote, the commission is dissolved at the time provided in the proposal and shall turn over to the board the management of the county enterprise or combined county enterprise and all property relating to it.

4. If a proposal to establish a commission receives a favorable majority vote, the commission is established at the time provided in the proposal. The board shall appoint the commission members, as provided in the proposal and this section. The board shall provide by resolution for staggered six-year terms for and shall set the compensation of commission members.

5. A commission member appointed to fill a vacancy occurring by reason other than the expiration of a term is appointed for the balance of the unexpired term.

6. The title of a commission shall be appropriate to the county enterprise or combined county enterprise administered by the commission. A commission may be a party to legal action. A commission may exercise all powers of the board in relation to the county enterprise or combined county enterprise it administers, with the following exceptions:

a. A commission shall not certify taxes to be levied, pass ordinances or amendments, or issue general obligation bonds.

b. The title to all property of a county enterprise or combined county enterprise shall be held in the name of the county, but the commission has all the powers and authorities of the board with respect to the acquisition by purchase, condemnation or otherwise, lease, sale or other disposition of the property, and the management, control and operation of the property, subject to the requirements, terms, covenants, conditions and provisions of any resolutions authorizing the issuance of revenue bonds, pledge orders, or other obligations which are payable from the revenues of the county enterprise or combined county enterprise, and which are then outstanding.

c. A commission shall make to the board a detailed annual report, including a complete financial statement.

d. Immediately following a regular or special meeting of a commission, the secretary of the commission shall prepare a condensed statement of the proceedings of the commission and cause the statement to be published as provided in section 331.305. The statement shall include a list of all claims allowed, showing the name

of the person or firm making the claim, the reason for the claim, and the amount of the claim. Salary claims must show the gross amount of the claim except that salaries paid to persons regularly employed by the commission, for services regularly performed by the persons shall be published once annually showing the gross amount of the salary. In counties having more than one hundred fifty thousand population the commission shall each month prepare in pamphlet form the statement required in this paragraph for the preceding month, and furnish copies to the public library, the daily and official newspapers of the county, the auditor, and to persons who apply at the office of the secretary, and the pamphlet shall constitute publication as required. Failure by the secretary to make publication is a simple misdemeanor.

7. A commission shall control tax revenues allocated to the county enterprise or combined county enterprise it administers and all moneys derived from the operation of the county enterprise or combined county enterprise, the sale of its property, interest on investments, or from any other source related to the county enterprise or combined county enterprise.

8. All moneys received by the commission shall be held by the county treasurer in a separate fund, with a separate account or accounts for each county enterprise or combined county enterprise. Moneys may be paid out of each account only at the direction of the appropriate commission.

9. A commission is subject to section 331.341, subsections 1, 2, 4 and 5, and section 331.342, in contracting for public improvements.

(83 Acts, ch 42, § 1) HF 358

Subsection 6 struck and following subsections renumbered

PART 5

CURRENT AND NONCURRENT DEBT

Effective for budgets and accounting procedures for fiscal year beginning July 1, 1984, and otherwise effective except as necessary to implement budgets for fiscal year beginning July 1, 1983; 83 Acts, ch 123, § 209 (HF 628)
County finance committee to report effect on county finances and administration on or before December 31, 1986; 83 Acts, ch 123, § 210 (HF 628)

331.476 Expenditures confined to receipts. Except as otherwise provided in section 331.478, a county officer or employee shall not allow a claim, issue a warrant, or execute a contract which will result during a fiscal year in an expenditure from a county fund in excess of an amount equal to the collectible revenues in the fund for that fiscal year plus any unexpended balance in the fund from a previous year. A county officer or employee allowing a claim, issuing a warrant, or executing a contract in violation of this section is personally liable for the payment of the claim or warrant or the performance of the contract.

(83 Acts, ch 123, § 23, 209) HF 628

NEW section

331.477 Current debt authorized. A debt payable from resources which will have accrued in a fund by the end of the fiscal year in which the debt is incurred may be authorized only by resolution of the board. The debt may take the form of:

1. Anticipatory warrants subject to chapter 74.
2. Loans from other county funds.
3. Other formal short-term debt instruments or obligations.

(83 Acts, ch 123, § 24, 209) HF 628

NEW section

331.478 Noncurrent debt authorized.

1. A county may contract indebtedness and issue bonds as otherwise provided by state law.

2. The board may by resolution authorize noncurrent debt as defined in subsection 3 which is payable from resources accruing after the end of the fiscal year in which the debt is incurred, in accordance with section 331.479, for any of the following purposes:

- a. Expenditures for bridges or buildings destroyed by fire, flood, or other extraordinary casualty.
- b. Expenditures incurred in the operation of the courts.
- c. Expenditures for bridges which are made necessary by the construction of a public drainage improvement.
- d. Expenditures for the benefit of a person entitled to receive assistance from public funds.
- e. Expenditures authorized by vote of the electorate.

f. Contracts executed on the basis of the budget submitted as provided in section 309.93.

g. Expenditures authorized by supervisors acting in the capacity of trustees or directors of a drainage district or other special district.

h. Expenditures for land acquisition for county conservation purposes not to exceed in any year the monetary equivalent of a tax of six and three-fourths cents per thousand dollars of assessed value on all the taxable property in the county.

i. Expenditures for purposes for which counties may issue general obligation bonds without an election under state law.

3. Noncurrent debt authorized by subsection 2 may take any of the following forms:

a. Anticipatory warrants subject to chapter 74. Anticipatory warrants drawn on the secondary road fund are also subject to sections 309.46 through 309.55.

b. Advances from other funds.

c. Installment purchase contracts.

d. Other formal debt instruments or obligations other than bonds.

4. Noncurrent debt as defined in subsection 3 shall be retired from resources of the fund from which the expenditure was made for which the debt was incurred.

(83 Acts, ch 123, § 25, 209) HF 628

NEW section

331.479 Other noncurrent debt issuance. Before the board may institute proceedings for the incurrence of debt for the purposes listed in section 331.478, subsection 2, a notice of the proposed action, including a statement of the amount, purposes, and form of the debt, the proposed time of its liquidation, and the time and place of the meeting at which the board proposes to take action to authorize the debt, shall be published as provided in section 331.305. At the meeting, the board shall receive oral or written objections from any resident or property owner of the county. After all objections have been received and considered, the board, at that meeting or a date to which it is adjourned, may take additional action to authorize the debt or abandon the proposal.

(83 Acts, ch 123, § 26, 209) HF 628

NEW section

331.502 General duties. The auditor shall:

1. Have general custody and control of the courthouse, subject to the direction of the board.

2. Provide, upon request and payment of the legal fee, a certified copy of any record or account kept in the auditor's office.

3. Pay costs and expenses of legal counsel appointed to represent a member of the Sac and Fox Indian settlement as provided in section 1.15.

4. Keep the complete journals of the general assembly and the official register available for public inspection as provided in section 18.90.

5. Carry out duties relating to the administration of local governmental budgets as provided in chapter 24 and section 384.19.

6. Report the approval of the bond of a public officer approved by the auditor on behalf of the board as provided in section 64.21.

7. Have custody of the official bonds of county and township officers as provided in section 64.23.

8. Take temporary possession of the office and all official books and papers in the office of treasurer when a vacancy occurs and hold the office, books, and records until a successor qualifies as provided in section 69.3. The auditor shall also serve temporarily as the recorder if a vacancy occurs in that office and, if there is no chief deputy assessor, act temporarily as the assessor as provided in section 441.8.

9. Serve as a member of an appointment board to fill a vacancy in the membership of the board as provided in section 69.8, subsection 5.

10. Certify to the commission on substance abuse a statement of the amount of county resources committed to the substance abuse program as provided in section 125.25.

11. Submit annually to the state department of health the names and addresses of the clerk, or if there is no clerk, the secretary of the local boards of health in the county as provided in section 135.32.

12. Pay to the local registrars of vital statistics the fees due them as certified by the state registrar of vital statistics as provided in section 144.11.

13. Notify the chairperson of the county agricultural extension education council when the bond of the council treasurer has been approved and filed as provided in section 176A.14.

14. Carry out duties relating to stray animals as provided in sections 188.30 to 188.32 and 188.41 to 188.44.

15. Attest to anticipatory warrants issued by the board for the operation of a county limestone quarry as provided in section 202.7.

16. Carry out duties relating to the determination of legal settlement, collection of funds due the county, and support of mentally retarded persons as provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69 and 222.74.

17. Collect the costs relating to the treatment and care of private patients at the state psychiatric hospital as provided in sections 225.23, 225.24 and 225.35.

18. Carry out duties relating to the hospitalization and support of mentally ill persons as provided in sections 229.42, 230.3, 230.11, 230.15, 230.21, 230.22, 230.25, and 230.26.

19. With acceptable sureties, approve the bonds of the members of a county commission of veteran affairs as provided in section 250.6.

20. Issue warrants and maintain a book containing a record of persons receiving veteran assistance as provided in section 250.10.

21. If the legal settlement of a poor person receiving financial assistance is in another county, notify the auditor of that county of the financial assistance as provided in section 252.22.

22. Notify the treasurer of funds due the state for the treatment of indigent persons at the university hospital as provided in section 255.26.

23. Make available to schools, voting machines or sample ballots for instructional purposes as provided in section 257.25, subsection 6.

24. Carry out duties relating to the collection and payment of funds for educating and supporting deaf students as provided in sections 270.6 and 270.7.

25. Order the treasurer to transfer tuition payments from the account of the debtor school corporation to the creditor school corporation as provided in section 282.21.

26. Order the treasurer to transfer transportation service fees from the account of the debtor school corporation to the creditor school corporation as provided in section 285.1, subsection 13.

27. Apportion school taxes, rents, and other money dedicated for public school purposes as provided in section 298.11.

28. Carry out duties relating to school lands and funds as provided in chapter 302.

29. Carry out duties relating to the establishment, alteration, and vacation of public highways as provided in sections 306.21, 306.25, 306.29 to 306.31, 306.37 and 306.40.

30. Carry out duties relating to the establishment and maintenance of secondary roads as provided in chapter 309.

31. Collect costs incurred by the county weed commissioner as provided in section 317.21.

32. Convene the conventions of the mayors and council members, and the directors of the school districts of the county for the purpose of selecting members of the county compensation board as provided in section 331.906.

33. Maintain a file of certificates of appointment issued by county officers as provided in section 331.903.

34. Furnish information and statistics requested by the governor or the general assembly as provided in section 331.901, subsection 1.

35. Carry out duties relating to the organization, expansion, reduction, or dissolution of a rural water district as provided in chapter 357A.

36. Acknowledge the receipt of funds refunded by the state as provided in section 452.18.

37. Be responsible for all public money collected or received by the auditor's office. The money shall be deposited in a bank approved by the board as provided in chapter 453.

38. Carry out duties relating to the establishment and management of levee and drainage districts as provided in chapters 455, 457, 459, 462, 465 and 466.

39. Serve as a trustee for funds of a cemetery association as provided in sections 566.12 and 566.13.

40. Notify the state department of transportation of claims filed for improvements on public roads payable from the primary road fund as provided in section 573.24.

41. Certify to the clerk of the district court the names, addresses, and expiration date of the terms of office of persons appointed to the county judicial magistrate appointing commission as provided in section 602.6503.

42. Serve as an ex officio member of the jury commission as provided in section 608.1.

43. Destroy outdated records as ordered by the board.

44. Carry out duties relating to the selection of jurors as provided in chapter 609.

45. Designate newspapers in which official notices of the auditor's office shall be published as provided in section 618.7.

46. Carry out duties relating to lost property as provided in sections 644.2, 644.4, 644.7, 644.10 and 644.16.

47. For payment of a permanent school fund mortgage, acknowledge satisfaction of the mortgage by execution of a written instrument referring to the mortgage as provided in section 655.1.

48. Receive and record in a book kept for that purpose, moneys recovered from a person willfully committing waste or trespass on real estate as provided in section 658.10.

49. Carry out other duties required by law.

(83 Acts, ch 186, § 10080—10083, 10201) SF 495
 Transition provisions in article 11, chapter 602 of this Supplement
 Subsections 8 and 41 (formerly 42) amended
 Subsections 10, 43 and 44 struck and following subsections renumbered
 (83 Acts, ch 101, § 77) SF 136
 Subsections 18 (formerly 19) and 21 (formerly 22) amended
 (83 Acts, ch 185, § 29, 62) HF 562
 Effective July 1, 1984; for law in effect until that date see Code 1983
 Subsection 47 (formerly 50) amended

331.504 Duties as clerk to the board. The auditor shall:

1. Record the proceedings of the board. The minutes of the board shall include a record of all actions taken and the complete text of the motions, resolutions, amendments, and ordinances adopted by the board. Upon the request of a supervisor present at a meeting, the minutes shall include a record of the vote of each supervisor on any question before the board.

2. Maintain the books and records required to be kept by the board under section 331.303.

3. Sign all orders issued by the board for the payment of money.

4. Record the reports of the treasurer of the receipts and disbursements of the county.

5. Maintain a file of all accounts acted upon by the board with the board's action on each account. If the board allows an expenditure from an account, the auditor shall indicate the amount of expenditure and the bill or claim for which the expenditure is allowed.

6. Furnish a copy of the proceedings of the board required to be published as provided in section 349.18.

7. Number each claim consecutively in the order of filing and enter the claim in the claim register alphabetically by the name of the claimant and including the date of filing, the number of the claim and its general nature, the action of the board, and if allowed, the fund from which the claim is paid. A record of the claims allowed at each session of the board shall be included in the minute book by reference to the numbers of the claims as entered in the claim register.

8. File for presentation to the board all unliquidated claims against the county and all claims for fees or compensation, except salaries fixed by state law. The claims, before being audited or paid, shall be itemized to clearly show the basis of the claim and whether for property sold or furnished for services rendered or for another purpose. An action shall not be brought against the county relating to a claim until the claim is filed as provided in this subsection and the payment refused or neglected.

(83 Acts, ch 29, § 1) HF 201

Subsection 8 amended

331.506 Issuance of warrants.

1. Except as provided in subsections 2 and 3, the auditor shall sign or issue a county warrant only after approval of the board by recorded vote. Each warrant shall be numbered and the date, amount, number, and the name of the person to whom issued shall be recorded and filed in the auditor's office. Each warrant shall be made payable to the person performing the service or furnishing the supplies for which the warrant makes payment and the purpose for which the warrant is issued shall be stated on it.

2. The auditor may issue warrants to pay the following claims against the county without prior approval of the board:

a. Witness fees and mileage for attendance before a grand jury, as certified by the county attorney and the foreman of the jury.

b. Witness fees and mileage in trials of criminal actions, as certified by the county attorney.

c. Fees and costs payable to the clerk of the district court or other state officers or employees in connection with criminal and civil actions when due, as shown in the statement submitted by the clerk of court under section 602.8109.

d. Expenses of the grand jury, upon order of a district judge.

3. The board, by resolution, may authorize the auditor to issue warrants to make the following payments without prior approval of the board:

a. For fixed charges including, but not limited to, freight, express, postage, water, light, telephone service or contractual services, after a bill is filed with the auditor.

b. For salaries and payrolls if the compensation has been fixed or approved by the board. The salary or payroll shall be certified by the officer or supervisor under whose direction or supervision the compensation is earned.

4. The bills paid under subsections 2 and 3 shall be submitted to the board for review and approval at its next meeting following the payment. The action of the board shall be recorded in the minutes of the board.

5. An officer certifying an erroneous bill or claim against the county is liable on the officer's official bond for a loss to the county resulting from the error.

(83 Acts, ch 186, § 10084, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 2 struck and rewritten

(83 Acts, ch 29, § 2) HF 201

Subsection 3, paragraph a amended

331.509 Financial report. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

331.510 Reports by the auditor. The auditor shall make:

1. A report to the governor of a vacancy, except by resignation, in the office of state representative or senator as provided in section 69.5.

2. An annual report to the clerk of the expenses incurred by the county for criminal prosecutions during the preceding fiscal year as provided in section 247.31.

3. A report to the secretary of state of the name, office, and term of office of each appointed or elected county officer within ten days of the officer's election or appointment and qualification.

4. An annual report not later than January 1 to the state comptroller of the valuation by class of property for each taxing district in the county on forms provided by the state comptroller. The valuations reported shall be those valuations used for determining the levy rates necessary to fund the budgets of the taxing districts for the following fiscal year.

5. An annual report not later than January 1 to the governing body of each taxing district in the county of the assessed valuations of taxable property in the taxing

district as reported to the state comptroller.

(83 Acts, ch 123, § 141, 209) HF 628

Subsections 2 and 3 struck and following subsections renumbered

331.512 Duties relating to taxation. The auditor shall:

1. Include on the tax list:
 - a. The levy of county taxes authorized by the board as provided by law.
 - b. The levy of taxes to pay the principal and interest on bonds as provided in sections 76.2 and 76.3.
 - c. The levy of a mulct tax against the property of a person maintaining a nuisance as certified by the clerk of the district court as provided in section 99.28.
 - d. The levy of a tax to pay the expenses incurred and penalties assessed by the state fire marshal relating to the repair or destruction of fire hazards as provided in sections 100.27 to 100.29.
 - e. The costs of erecting, rebuilding, or repairing a fence under order of the fence viewers as provided in section 113.6.
 - f. A levy against the property of a bee owner sufficient to pay the costs of disinfecting or destroying diseased bees as provided in section 160.8.
 - g. The levy for taxes for the county brucellosis and tuberculosis eradication fund as provided in section 165.18.
 - h. The levy of a tax for the operation of an area vocational school or an area community college as provided in section 280A.17.
 - i. The levy of a tax to pay the principal and interest under a loan agreement entered into by merged area school authorities as provided in section 280A.22.
 - j. The levy of community school taxes as provided by law.
 - k. The levy of a tax as certified by the board of trustees of a sanitary district as provided in section 358.18.
 - l. The levy of taxes certified by the board of trustees of a township as provided in chapters 359 and 360.
 - m. The levy of city taxes and assessments as certified by the city council as provided by law.
 - n. Other tax levies as provided by law.
2. Carry out duties relating to tax sales of property within special charter cities as provided in sections 420.220 to 420.229.
3. Carry out duties relating to the homestead tax credit and agricultural land tax credit as provided in chapters 425 and 426.
4. Prepare and certify to the county treasurer the total amount of dollars for military service tax credits claimed and allowed as provided under sections 426A.3 and 427.3 to 427.6.
5. Carry out duties relating to the preparation of the tax list as provided in sections 427A.3, 427A.6, 428.4, 441.17, 441.21, 443.2 to 443.9 and 443.21.
6. Carry out duties relating to the valuation and taxation of telegraph and telephone companies as provided in sections 433.8 to 433.10 including mapping requirements as provided in sections 433.14 and 433.15.
7. Transmit to other local government officials the order stating the length of the main track and the assessed value of each railway located within the county as provided in section 434.22.
8. Carry out duties relating to the valuation and taxation of express companies as provided in sections 436.9 to 436.11.
9. Transmit to other local government officials the order stating the length of the electric transmission lines and the assessed value of the property of the electric transmission line companies located within the county as provided in section 437.10.
10. Carry out duties relating to the valuation and taxation of pipeline companies as provided in sections 438.14 to 438.16.
11. Furnish the assessor a plat book which is platted with the lands and lots within the assessment district as provided in section 441.29. The auditor, with the

approval of the board of supervisors, may establish a permanent real estate index number system as provided in section 441.29.

12. Carry out duties relating to levy of school taxes as provided in chapter 442.

13. Carry out duties relating to the computation of tax rates as provided under chapter 444.

14. Provide for the enforcement of a lien against the taxable personal property of nonresidents as provided in sections 445.44 and 445.45.

15. Keep a complete account of each separate fund or tax in the county treasury as provided in section 445.59.

16. When an order of apportionment is made, correct the tax books or records in the auditor's possession as provided in section 449.4.

17. Carry out other duties as provided by law.

(83 Acts, ch 123, § 142, 209) HF 628

Subsection 1, paragraph g amended

331.552 General duties. The treasurer shall:

1. Receive all money payable to the county unless otherwise provided by law.

2. Disburse money owed or payable by the county on warrants drawn and signed by the auditor and sealed with the official county seal.

3. Keep a true account of all receipts and disbursements of the county, which account shall be available for inspection by the board at any reasonable time.

4. Keep the official county seal provided by the county. The official seal shall be an impression seal on the face of which shall appear the name of the county, the word "county" which may be abbreviated, the word "treasurer" which may be abbreviated, and the word "Iowa". The impression of the seal shall be placed on each motor vehicle registration certificate signed by the treasurer.

5. Account for, report, and pay into the state treasury any money, property, or securities received on behalf of the state as provided in sections 8.7 to 8.9.

6. Account for and report to the board the amount of swampland indemnity funds received from the treasurer of state under section 12.16.

7. Register and call tax anticipatory warrants issued for a memorial hospital as provided under section 37.30.

8. Serve on a nomination appeals commission to hear nomination objections filed with the county commissioner of elections as provided in section 44.7.

9. Keep on file the bond and oath of the auditor as provided in section 64.23.

10. File the notice of authority from the auditor to transfer funds to a substance abuse treatment facility as provided in section 125.49.

11. Credit funds from the sale of seized conveyances to the treasurer of state for distribution under section 602.8107.*

12. Serve as treasurer of an area hospital located outside the corporate limits of a city as provided in section 145A.15.

13. Register and call anticipatory warrants related to the sale of limestone as provided in section 202.8.

14. Make transfer payments to the state for school expenses for blind and deaf children, support of the mentally ill, and hospital care for the indigent as provided in sections 230.21, 255.26, 269.2 and 270.7.

15. Transfer funds to pay the expenses of creating or changing the boundaries of a school district as provided in section 275.26.

16. Transfer funds to pay tuition expenses owed by a debtor school district to a creditor school district as provided in section 282.21.

17. Pay to the treasurers of the school corporations located in the county the taxes and other moneys due as provided in section 298.11 and send amounts collected for each fund of a school corporation for direct deposit into the depository and account designated as provided in section 298.13.

18. Pay monthly to the treasurer of state proceeds of public lands sold and escheated estates as provided in section 302.2 and pay annually on February 1 interest collected from public lands sold on credit as provided in section 302.5.

19. Maintain a school fund account and records of school funds received as provided in section 302.31.

20. Carry out duties relating to the sale and redemption of anticipatory certificates for secondary road construction as provided in sections 309.50 to 309.55.

21. Carry out duties relating to the establishment of secondary road assessment districts as provided in chapter 311.

22. Carry out duties relating to the sale and redemption of county bonds as provided in division IV, parts 3 and 4.

23. Notify the chairperson of the county hospital board of trustees and pay to the hospital treasurer the tax revenue collected for the county hospital during the preceding month as provided in section 347A.1.

24. Collect a fee of three dollars for issuing a certificate for land sold for nonpayment of taxes or a certificate of redemption of land sold for taxes.

25. Carry out duties relating to the condemnation of property as provided in section 331.656, subsection 4.

26. Carry out duties relating to the funding of drainage districts as provided in chapters 455, 457, 461, 462, 463, 464, and 466.

27. Collect and disburse funds for soil conservation districts as provided in sections 467A.33 and 467A.34.

28. Credit the remainder of funds received from a hotelkeeper's sale to satisfy a lien to the county general fund as provided in section 583.6.

29. Designate the newspapers in which the official notices of the treasurer's office are to be published as provided in section 618.7.

30. Carry out other duties as required by law.

(83 Acts, ch 123, § 143—146, 209) HF 628

Subsection 10 amended

Subsections 12, 29 and 33 struck and following subsections renumbered

(83 Acts, ch 186, § 10088, 10089, 10201, 10204) SF 495

Transition provisions in article 11, chapter 602 of this Supplement; see § 602.11113

*See following amendment and Code editor's note to section 32.2 at the end of this Supplement

Subsection 11 amended

Subsection 31 struck and following subsections renumbered

331.552 General duties. The treasurer shall:

1. Receive all money payable to the county unless otherwise provided by law.
2. Disburse money owed or payable by the county on warrants drawn and signed by the auditor and sealed with the official county seal.
3. Keep a true account of all receipts and disbursements of the county, which account shall be available for inspection by the board at any reasonable time.
4. Keep the official county seal provided by the county. The official seal shall be an impression seal on the face of which shall appear the name of the county, the word "county" which may be abbreviated, the word "treasurer" which may be abbreviated, and the word "Iowa". The impression of the seal shall be placed on each motor vehicle registration certificate signed by the treasurer.
5. Account for, report, and pay into the state treasury any money, property, or securities received on behalf of the state as provided in sections 8.7 to 8.9.
6. Account for and report to the board the amount of swampland indemnity funds received from the treasurer of state under section 12.16.
7. Register and call tax anticipatory warrants issued for a memorial hospital as provided under section 37.30.
8. Serve on a nomination appeals commission to hear nomination objections filed with the county commissioner of elections as provided in section 44.7.
9. Keep on file the bond and oath of the auditor as provided in section 64.23.
10. File the notice of authority from the auditor to transfer funds to a substance abuse treatment facility as provided in section 125.49.
11. Serve as treasurer of an area hospital located outside the corporate limits of a city as provided in section 145A.15.
12. Register and call anticipatory warrants related to the sale of limestone as provided in section 202.8.

13. Make transfer payments to the state for school expenses for blind and deaf children, support of the mentally ill, and hospital care for the indigent as provided in sections 230.21, 255.26, 269.2 and 270.7.

14. Transfer funds to pay the expenses of creating or changing the boundaries of a school district as provided in section 275.26.

15. Transfer funds to pay tuition expenses owed by a debtor school district to a creditor school district as provided in section 282.21.

16. Pay to the treasurers of the school corporations located in the county the taxes and other moneys due as provided in section 298.11 and send amounts collected for each fund of a school corporation for direct deposit into the depository and account designated as provided in section 298.13.

17. Pay monthly to the treasurer of state proceeds of public lands sold and escheated estates as provided in section 302.2 and pay annually on February 1 interest collected from public lands sold on credit as provided in section 302.5.

18. Maintain a permanent school fund account and records of school funds received as provided in section 302.31.

19. Carry out duties relating to the sale and redemption of anticipatory certificates for secondary road construction as provided in sections 309.50 to 309.55.

20. Carry out duties relating to the establishment of secondary road assessment districts as provided in chapter 311.

21. Carry out duties relating to the sale and redemption of county bonds as provided in division IV, parts 3 and 4.

22. Notify the chairperson of the county hospital board of trustees and pay to the hospital treasurer the tax revenue collected for the county hospital during the preceding month as provided in section 347A.1.

23. Collect a fee of three dollars for issuing a certificate for land sold for nonpayment of taxes or a certificate of redemption of land sold for taxes.

24. Carry out duties relating to the condemnation of property as provided in section 331.656, subsection 4.

25. Carry out duties relating to the funding of drainage districts as provided in chapters 455, 457, 461, 462, 463, 464, and 466.

26. Collect and disburse funds for soil conservation districts as provided in sections 467A.33 and 467A.34.

27. Credit the remainder of funds received from a hotelkeeper's sale to satisfy a lien to the county general fund as provided in section 583.6.

28. Designate the newspapers in which the official notices of the treasurer's office are to be published as provided in section 618.7.

29. Carry out other duties as required by law.

(83 Acts, ch 185, § 31, 32, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement

Subsection 11 struck and following subsections renumbered

Subsection 18 (formerly 20) amended

331.554 Duties relating to warrants.

1. Upon receipt of a warrant, scrip, or other evidence of the county's indebtedness, the treasurer shall endorse on it the date of its receipt, from whom it is received, and the amount which the treasurer paid on it.

2. When a person wishing to make a payment to the county treasury presents a warrant of the county in an amount greater than the payment or presents for payment a warrant of the county in excess of the funds in the county treasury, the treasurer shall cancel the warrant and give the holder a certificate of the overplus. When the certificate of overplus is presented to the auditor, the auditor shall file it, issue a new warrant for the amount of the overplus, and charge the amount to the treasurer. The certificate of overplus is transferable by delivery and entitles the holder to a new warrant, payable to the order of the holder and containing reference to the original warrant.

3. The treasurer shall keep a record of all warrants issued by the auditor and presented for payment in a warrant book. The treasurer shall record for each warrant

its number, date, principal, name of the drawee, when paid, to whom paid, and the amount of interest paid.

4. The treasurer shall return the warrants to the auditor. The treasurer shall compare the warrants with the warrant book and the word "canceled" shall be written over the minute of the proper numbers in the warrant book. The original warrant shall be preserved for at least two years. The treasurer shall make monthly reports to show for each warrant the number, date, drawee's name, when paid, to whom paid, original amount, and interest.

5. a. When a warrant legally drawn on the county treasury is presented for payment and not paid because of a deficiency, the treasurer shall carry out duties relating to the endorsement and payment of interest on the amount of deficiency as provided in chapter 74.

b. In lieu of the requirements and procedures specified in sections 74.1, 74.2, and 74.3, when warrants other than anticipatory warrants are presented for payment and not paid for want of funds or are only partially paid, the treasurer may issue a warrant order for an amount equal to the unpaid warrants drawn on a fund. The warrant order shall be dated and include the fund name, amount, and the rate of interest established under section 74A.6. The warrant order shall be endorsed by the treasurer, "not paid for want of funds", and include the treasurer's signature. The treasurer shall keep a list of all warrants comprising a warrant order and shall submit a duplicate copy of the warrant order to the auditor. The procedures of sections 74.4 to 74.7 apply to warrant orders.

6. The amount of a check outstanding for more than two years shall be paid to the treasurer and credited as unclaimed fees and trusts. The treasurer shall provide a list of the checks to the auditor who shall maintain a record of the unclaimed fees and trusts. A person may claim an unclaimed fee or trust within five years after the money is credited upon proper proof of ownership.

7. A warrant outstanding for more than two years shall be canceled by the auditor and the amount of the warrant shall be credited to the fund upon which the warrant was drawn. A person may file a claim with the auditor for the amount of the canceled warrant within five years of the date of the cancellation, and upon showing of proper proof that the claim is true and unpaid, the auditor shall issue a warrant drawn upon the fund from which the original canceled warrant was drawn. This subsection does not apply to warrants issued upon drainage or levee district funds or any fund upon which the county treasurer has issued a warrant order or stamped a warrant for want of funds.

(83 Acts, ch 123, § 147, 209) HF 628

Subsection 6 amended

(83 Acts, ch 65, § 1, 2) HF 242

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 6 amended

NEW subsection 7

331.559 Duties relating to taxation. The treasurer shall:

1. Determine and collect taxes on mobile homes as provided in sections 135D.22 to 135D.26.

2. Collect the tax levied for the county brucellosis and tuberculosis eradication fund as provided in section 165.18.

3. Collect the tax levied for the county agricultural extension education fund and pay it to the extension treasurer as provided in section 176A.12.

4. Collect the costs assessed by the secretary of agriculture relating to the treatment or destruction of agricultural or horticultural plants or products as provided in section 177A.17.

5. Collect the tax levied for the erection and equipping of area vocational school or area community college facilities as provided in section 280A.22.

6. Collect the costs assessed against a property owner for the destruction or eradication of weeds as provided in sections 317.20 and 317.21.

7. Levy a tax sufficient to pay any deficiency in the assessments collected to pay the principal and interest on bonds issued by a benefited water district as provided in section 357.22.

8. Collect city taxes certified to the auditor as provided in section 384.2.

9. Send the amounts of each city's tax revenue collected on its behalf for direct deposit into the depository and account designated as provided in section 384.11.
10. Accept a partial payment of the annual installment of a special assessment before its due date as provided in section 384.65, subsection 6.
11. Serve as an agent of the director of revenue to collect state taxes as provided in section 422.71, subsection 5.
12. Carry out duties relating to the administration of the homestead tax credit as provided in sections 425.4, 425.5, 425.7, 425.9, 425.10 and 425.25.
13. Carry out duties relating to the administration of the agricultural land tax credit as provided in section 426.8.
14. Carry out duties relating to the administration of the military service tax credit as provided in sections 426A.3, 426A.5, 426A.8 and 426A.9.
15. Maintain a suspended tax list book as provided in section 427.12.
16. Collect taxes levied against the property of telephone and telegraph companies as provided in section 433.10.
17. Collect taxes levied against the property of railway companies as provided in section 434.22.
18. Carry out duties relating to the collection and expenditure of assessment expense funds as provided in section 441.16.
19. Apportion and collect the costs assessed by the district court against the board of review or any taxing body resulting from an appeal of property assessments as provided in section 441.40.
20. Carry out duties relating to the preparation and correction of the tax list as provided in chapter 443.
21. Carry out duties relating to the collection of property taxes as provided in chapter 445.
22. Carry out duties relating to the sale of property for delinquent taxes as provided in chapter 446.
23. Carry out duties relating to the redemption of property sold for taxes as provided in chapter 447.
24. Carry out duties relating to the issuance of a tax deed for property sold for delinquent taxes as provided in chapter 448.
25. Correct tax books or records in accordance with an order of apportionment issued as provided in chapter 449.
26. Carry out other duties relating to taxation as provided by state law.

(83 Acts, ch 123, § 148, 149, 209) HF 628
 Subsection 1 struck and following subsections renumbered
 Subsections 2, 3 and 6 (formerly 3, 4 and 7) amended

331.602 General duties. The recorder shall:

1. Record all instruments presented to the recorder's office for recordation upon payment of the proper fees and compliance with other recording requirements as provided by law. The instruments presented for filing or recordation shall have typed or legibly printed on them the names of all signatories including the names of acknowledging officers and witnesses beneath the original signatures.
 - a. However, if an instrument does not contain typed or printed names, the recorder shall accept the instrument for recordation or filing if it is accompanied by an affidavit, to be recorded with the instrument, correctly spelling in legible print or type the signatures appearing on the instrument.
 - b. The requirement of paragraph "a" does not apply to military discharges, military instruments, wills, court records or to any other instrument dated before July 4, 1959.
 - c. Failure to print or type signatures as provided in this subsection does not invalidate the instrument.
2. Rerecord an instrument without fee upon presentation of the original instrument by the owner if an error is made in recording the instrument. The recorder shall also note in the margin of the new record a reference to the original record and in the margin of the original record a reference to the book and page of the new record.
3. If an error is made in indexing an instrument, reindex the instrument without fee.

4. Record the registration of a person registered under the federal Social Security Act who requests recordation, and keep an alphabetical index of the record referring to the name of the person registered.

5. Compile a list of deeds recorded in the recorder's office after July 4, 1951, which are dated or acknowledged more than six months before the date of recording and forward a copy of the list each month to the inheritance tax division of the department of revenue.

6. Carry out duties as a member of a nomination appeals commission as provided in section 44.7.

7. Carry out duties relating to the recordation of oil and gas leases as provided in sections 84.22 and 84.24.

8. Endorse on each notice of an unemployment contribution lien the day, hour, and minute that the lien is received from the Iowa department of job service, index the notice of lien, and record the lien as provided in section 96.14, subsection 3.

9. Carry out duties relating to the registration of vessels as provided in sections 106.5, 106.23, 106.51, 106.52, 106.54 and 106.55.

10. Carry out duties relating to the issuance of hunting, fishing, and trapping licenses as provided in sections 110.10, 110.12, 110.13, 110.14, 110.15 and 110.22.

11. Issue migratory waterfowl stamps as provided in chapter 110B.

12. Record the orders and decisions of the fence viewers and index the record in the name of each adjoining owner of land affected by the order or decision as provided in section 113.10. The recorder shall also note that a judgment has been rendered on an appeal of an order or decision of the fence viewers as provided in section 113.24.

13. Submit annually to the secretary of state by December 1 of each year the names and addresses of each limited partnership owning agricultural land or engaged in farming in the county as provided in section 172C.13.

14. Record without fee the articles of incorporation of farm aid associations as provided in section 176.5.

15. Keep, as a public record, the brand book and supplements supplied by the secretary of agriculture as provided in section 187.11.

16. Record without fee a sheriff's deed for land under foreclosure procedures as provided in section 302.35.

17. Issue snowmobile registrations as provided in sections 321G.4, 321G.6, and 321G.21.

18. Record the measure and plat of a zoning district, building line, or fire limit adopted by a city as provided in section 380.11.

19. Carry out duties relating to the platting of land as provided in chapter 409 and sections 441.65 to 441.71.

20. Submit quarterly to the director of revenue a report of the revenue stamps or sale price and equalized value of real estate sold as provided in section 421.17, subsection 6.

21. Carry out duties relating to the endorsement, indexing, and recording of income tax liens as provided in section 422.26.

22. Carry out duties relating to the taxation of real estate transfers as provided in chapter 428A.

23. Carry out duties relating to the recording and indexing of affidavits and claims affecting real estate as provided in section 448.17.

24. Forward to the director of revenue a certified copy of any deed, bill of sale or other transfer which shows that it is made or intended to take effect at or after the death of the person executing the instrument as provided in section 450.81.

25. Record papers, statements, and certificates relating to the condemnation of property as provided in section 472.38.

26. Record instruments relating to the dissolution of a corporation or renewal of articles of incorporation as provided in sections 491.23 and 491.27.

27. Carry out duties relating to the recordation of articles of incorporation and other instruments for business corporations as provided in section 496A.53.

28. Record the articles of incorporation of a co-operative association received from the secretary of state as provided in section 497.3.
29. Carry out duties relating to recording of articles of incorporation and charters for nonprofit corporations as provided in chapters 504 and 504A.
30. Carry out duties relating to the recordation of articles of incorporation and other instruments for state banks as provided in chapter 524.
31. Carry out duties relating to the recordation of articles of incorporation and other instruments for credit unions as provided in chapter 533.
32. Carry out duties relating to the recordation of articles of incorporation and other instruments for savings and loan associations as provided in chapter 534.
33. Record, index, and send to the secretary of state instruments relating to limited partnerships as provided in sections 545.206 and 545.1106.
34. Carry out duties relating to the filing of financing statements or instruments as provided in sections 554.9401 to 554.9408.
35. Register the name and description of a farm as provided in sections 557.22 to 557.26.
36. Record conveyances and leases of agricultural land as provided in section 558.44.
37. Collect the recording fee and the auditor's transfer fee for real property being conveyed as provided in section 558.58.
38. Serve as a member of the jury commission to draw jurors as provided in section 608.1.
39. Record and index a notice of title interest in land as provided in section 614.35.
40. Designate the newspapers in which the notices pertaining to the office of recorder shall be published as provided in section 618.7.
41. Record a conveyance of property presented by a commissioner appointed by the district court as provided in section 624.35.
42. Carry out duties relating to the indexing of name changes, and the recorder may charge a fee for indexing as provided in section 674.14.
43. Report quarterly to the board the fees collected as provided in section 331.902.
44. Carry out other duties as provided by law.

331.653 General duties of the sheriff. The sheriff shall:

1. Execute and return all writs and other legal process issued to the sheriff by legal authority. The sheriff shall execute and return any legal process in the sheriff's possession at the expiration of the sheriff's term of office and if a vacancy occurs in the office of sheriff, the sheriff's deputies shall execute and return the legal processes in their possession as if the sheriff had continued in office. The sheriff's successor or other officer authorized to discharge the duties of the office of sheriff may execute and return the legal processes on behalf of the outgoing sheriff and the sheriff's deputies, but the outgoing sheriff and the sheriff's deputies remain liable for the execution and return of the legal processes in their possession when the sheriff leaves office or the vacancy occurs.
2. Upon written order of the county attorney, make a special investigation of any alleged infraction of the law within the county and report the findings to the county attorney within a reasonable time. Upon completion of the investigation, the sheriff shall file with the auditor a detailed, sworn statement of the expenses of the investigation accompanied by the written order of the county attorney. The board shall audit and pay the reasonable and necessary expenses of the investigation.
3. Upon leaving office, deliver to the sheriff's successor and take the successor's receipt for all books and papers pertaining to the office except as provided in subsection 1, property attached and levied upon, and prisoners in the county jail. The receipt is sufficient indemnity to the outgoing sheriff.
4. Provide bailiff and other law enforcement service to the district judges, district associate judges, and judicial magistrates of the county upon request.
5. Serve as a member of the joint county-municipal disaster services and emergency planning administration as provided in section 29C.9.
6. Enforce the provisions of chapter 32 relating to the desecration of flags and insignia.
7. Carry out duties relating to election contests as provided in sections 57.6, 62.4 and 62.19.
8. Carry out duties relating to the seizure and disposition of illegal oil and gas supplies as provided in section 84.15.
9. Serve a notice or subpoena received from a board of arbitration as provided in section 90.10.
10. Co-operate with the bureau of labor in the enforcement of child labor laws as provided in section 92.22.
11. Carry out duties relating to the seizure and forfeiture of cigarettes, vehicles and other property used in violation of cigarette tax laws as provided in section 98.32.
12. Observe and inspect any licensed premise for gambling devices and report findings to the license-issuing authority as provided in section 99A.4.
13. Carry out duties relating to the issuance of permits for the possession, transportation and detonation of explosive materials as provided in sections 101A.3, 101A.5, 101A.7, and 101A.8.
14. Seize fish and game taken, possessed or transported in violation of the state fish and game laws as provided in section 109.12.
15. Carry out duties relating to the enforcement of state liquor and beer laws as provided in sections 123.14, 123.117, and 123.118.
16. Carry out duties relating to the seizure, forfeiture, and sale of conveyances used in state liquor law violations as provided in chapter 127 or controlled substance violations as provided in section 127.24.
17. Enforce the payment of the mobile home tax as provided in section 135D.24.
18. Carry out duties relating to the reporting of persons injured in the commission of a crime, either as perpetrators or victims, as provided in sections 147.111 and 147.112.
19. Carry out duties relating to the enforcement of livestock transportation laws as provided in chapter 172B.

20. Investigate disputes in the ownership or custody of branded animals as provided in section 187.10.
21. Destroy any unfit and disabled estray animal as provided in section 188.50.
22. Execute a warrant involving a person accused of a crime who is released from a state hospital as provided in sections 226.27 and 226.28.
23. Carry out duties relating to the involuntary hospitalization of mentally ill persons as provided in sections 229.7 and 229.11.
24. Carry out duties relating to the investigation of reported child abuse cases and the protection of abused children as provided in section 232.71.
25. Remove, upon court order, an indigent person to the county or state of the person's legal settlement as provided in section 252.18.
26. File a complaint upon receiving knowledge of an indigent person who is ill and may be improved, cured or advantageously treated by medical or surgical treatment or hospital care as provided in section 255.2.
27. Give notice of the time and place of making an appraisal of unneeded school land as provided in sections 297.17 and 297.28.
28. Co-operate with the department of transportation, the department of public safety, and other law enforcement agencies in the enforcement of local and state traffic laws and inspections as provided in sections 321.5 and 321.6.
29. Report the theft and recovery of a registered motor vehicle as provided in section 321.72.
30. Collect unpaid motor vehicle fees and penalties as provided in sections 321.133 to 321.135.
31. If designated by the department of transportation, conduct examinations of applicants for operators', motorized bicycle, and chauffeurs' licenses as provided in section 321.187.
32. Enforce sections 321.372 to 321.379 relating to school buses.
33. Carry out duties relating to the enforcement of laws prohibiting the operation of a motor vehicle while under the influence of an alcoholic beverage as provided in chapter 321B.
34. Upon request, assist the department of revenue and the state department of transportation in the enforcement of motor fuel tax laws as provided in section 324.76.
35. Have charge of the county jails in the county and custody of the prisoners committed to the jails as provided in chapter 356.
36. Execute a distress warrant issued to collect delinquent personal property taxes as provided in section 445.8.
37. Collect delinquent taxes certified by the treasurer as provided in section 445.49.
38. Notify the department of water, air and waste management of hazardous conditions of which the sheriff is notified as provided in section 455B.386.
39. Carry out duties relating to condemnation of private property as provided under chapter 472.
40. Carry out duties relating to the removal and disposition of abandoned motor vehicles as provided in section 556B.1.
41. Carry out duties relating to the determination of what is included in a homestead as provided in section 561.8.
42. Carry out duties relating to liens for services of animals as provided in chapter 580.
43. Summon persons to serve as jurors as provided in sections 609.30 and 609.31.
44. Carry out duties relating to the summoning of talesmen as provided in section 609.41.
45. Designate the newspapers in which notices pertaining to the sheriff's office are published as provided in section 618.7.
46. Carry out duties relating to the execution of judgments and orders of the court as provided in chapter 626.

47. Add the amount of an advancement made by the holder of the sheriff's sale certificate to the execution, upon verification by the clerk as provided by section 629.3.

48. Upon appointment of the court, serve as a receiver of property of a judgment debtor as provided in sections 630.7 and 630.9.

49. Carry out duties relating to the attachment of property as provided in chapters 639, 640 and 641.

50. Carry out duties relating to garnishment under chapter 642.

51. Carry out duties relating to an action of replevin as provided in chapter 643.

52. Carry out orders of the court or a judge relating to the service or execution of a writ of habeas corpus as provided under chapter 663.

53. Carry out duties relating to the disposition of lost property as provided in chapter 644.

54. Carry out orders of the court requiring the sheriff to take custody and deposit or deliver trust funds as provided in section 682.30.

55. Carry out legal processes directed by an appellate court as provided in section 686.14.

56. Furnish the bureau of criminal identification with the criminal identification records and other information upon direction by the commissioner of public safety as provided in section 690.1.

57. Take the fingerprints of all persons specified under section 690.2 and forward the fingerprint records to the commissioner of public safety.

58. Report information on crimes committed and furnish disposition reports on persons arrested and criminal complaints or information filed in any court as provided in section 692.15.

59. Carry out duties relating to firearm training and the issuance and revocation of firearm permits as provided in chapter 724.

60. Accept custody of persons handed over to the sheriff by the department of public safety as provided in section 804.28.

61. Carry out duties relating to the forfeiture and judgment of bail as provided in section 811.6.

62. Resume custody of a defendant who is recommitted after bail by order of a magistrate as provided in section 811.7.

63. Carry out duties relating to the confinement of mentally ill persons or dangerous persons as provided in section 812.5.

64. Release a defendant in custody upon receipt of a certificate of release as provided in section 814.14.

65. Upon call of the governor or attorney general, render assistance in the enforcement of the law as provided in section 817.2.

66. Upon court order, take an accused person into custody from the warden of a penal institution and convey the person to the place of trial as provided in rule of criminal procedure 7.

67. Receive and detain a defendant transferred from another county under a change of venue as provided in rule of criminal procedure 10, subsection 9.

68. Carry out duties relating to the execution of a judgment for confinement or other execution as provided in rule of criminal procedure 24.

69. Carry out duties relating to the return of service in civil cases as provided in rule of civil procedure 59.

70. Serve a writ of certiorari as provided in rule of civil procedure 312.

71. Carry out other duties required by law.

(83 Acts, ch 186, § 10090, 10091, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 4 amended

Subsections 7 and 71 struck and following subsections renumbered

(83 Acts, ch 101, § 79) SF 136

Subsection 38 (formerly 39) amended

331.655 Fees — mileage — expenses.

1. The sheriff shall collect the following fees:
 - 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.
 - b. For each warrant served, six dollars, and the repayment of necessary expenses incurred in executing the warrant, as sworn to by the sheriff, or if service of the warrant cannot be made, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the warrant.
 - c. For serving and returning a subpoena, for each person served, six dollars, and the necessary expenses incurred while serving subpoenas in criminal cases or relating to the mentally ill process.
 - d. For summoning a grand or trial jury, all necessary and actual expenses incurred by the sheriff.
 - e. For summoning a jury to assess the damages to the owners of lands taken for works of internal improvement, and attending them, thirty dollars per day, and necessary expenses incurred. This subsection does not allow a sheriff to make separate charges for different assessments which can be made by the same jury and completed in one day of ten hours.
 - f. For serving an execution, attachment, order for the delivery of personal property, injunction, or any order of court, and returning it, five dollars.
 - g. For making and executing a certificate or deed for lands sold on execution, or a bill of sale for personal property sold, five dollars.
 - h. For the time necessarily employed in making an inventory of personal property attached or levied upon, three dollars per hour.
 - i. For a copy of any paper required by law, made by the sheriff, twenty-five cents.
 - j. Mileage at the rate specified in section 79.9 in all cases required by law, going and returning. Mileage fees do apply where provision is made for expenses, and both mileage and expenses shall not be allowed for the same services and for the same trip. If the sheriff transports one or more persons by auto to a state institution or any other destination required by law or if one or more legal papers are served on the same trip, the sheriff is entitled to one mileage, the mileage cost of which shall be prorated to the persons transported or papers served. However, in serving original notices in civil cases and in serving and returning a subpoena, the sheriff shall be allowed mileage in each action where the original notice or subpoena is served, with a minimum mileage of one dollar for each service. The sheriff may refuse to serve original notices in civil cases until the fees and estimated mileage for service have been paid.
 - k. For each day attending sale of property, three dollars.
 - l. For conveying one or more persons to a state, county, or private institution by order of court or commission, necessary expenses for the sheriff and the person conveyed and three dollars per hour for the time necessarily employed in going to and from the institution, the expenses and hourly rate to be charged and accounted for as fees. If the sheriff needs assistance in taking a person to an institution, the assistance shall be furnished at the expense of the county.
 - m. For serving a warrant for the seizure of intoxicating liquors, one dollar; for the removal and custody of the liquor, actual expenses; for the destruction of the liquor under the order of the court, one dollar and actual expenses; for posting and leaving notices in these cases, one dollar and actual expenses.
 - n. For each operators', motorized bicycle or chauffeurs' license issued by the sheriff, the fee specified in section 321.192:
 - o. For posting a notice or advertisement, the fee provided in section 618.12.

p. For delivering prisoners under a change of venue, the fee authorized under section 815.8.

2. The mileage fees allowed by law may be retained by the sheriff as an addition to the sheriff's annual salary. In counties having a population of one hundred thousand or more, the county may contract with the sheriff for the use of an automobile on a monthly basis in lieu of payment of mileage in the service of criminal processes.

3. The sheriff shall keep an accurate record of the fees collected in a fee book, make a quarterly report of the fees collected to the board, and pay the fees belonging to the county into the county treasury as provided in section 331.902.

4. The sheriff shall deposit funds collected and held by the sheriff in an approved depository as provided in chapter 453.

(83 Acts, ch 198, § 23) SF 531

Subsection 1, paragraph a amended

PART 5

CLERK OF DISTRICT COURT

This part, consisting of sections 331.701—331.705 was repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495); see chapter 602, article 8, and transition provisions in article 11, in this Supplement

331.701 Office of the clerk of the district court. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.702 General duties. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.703 General powers. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.704 Records and books. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.705 Fees — collection and disposition. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.756 Duties of the county attorney. The county attorney shall:

1. Diligently enforce or cause to be enforced in the county, state laws and county ordinances, violations of which may be commenced or prosecuted in the name of the state, county, or as county attorney, except as otherwise provided.

2. Appear for the state and the county in all cases and proceedings in the courts of the county to which the state or the county is a party, except actions or proceedings resulting from a change of venue from another county, and appear in the appellate courts in all cases in which the county is a party, and appear in all actions or proceedings which are transferred on a change of venue to another county or which require the impaneling of a jury from another county and in which the county or the state is a party.

3. Prosecute all preliminary hearings for charges triable upon indictment.

4. Prosecute misdemeanors when not otherwise engaged in the performance of other official duties.

5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, and forfeitures accruing to the state or the county or to a school district or road district in the county, and all suits in the county against public service corporations which are brought in the name of the state.

6. Commence, prosecute, and defend all actions and proceedings in which a county officer, in the officer's official capacity, or the county is interested or a party.

7. Give advice or a written opinion, without compensation, to the board and other county officers and to school and township officers, when requested by an officer, upon any matters in which the state, county, school, or township is interested, or relating to the duty of the officer in any matters in which the state, county, school, or township may have an interest, but the county attorney shall not appear before the board at a hearing in which the state or county is not interested.

8. Attend the grand jury when necessary for the purpose of examining witnesses before it or giving it legal advice. The county attorney shall procure subpoenas or other process for witnesses and prepare all informations and bills of indictment.

9. Give a receipt to all persons from whom the county attorney receives money in an official capacity and file a duplicate receipt with the county auditor.

10. Make reports relating to the duties and the administration of the county attorney's office to the governor when requested by the governor.

11. Co-operate with the auditor of state to secure correction of a financial irregularity as provided in section 11.15.

12. Submit reports as to the condition and operation of the county attorney's office when required by the attorney general as provided in section 13.2, subsection 7.

13. Institute legal proceedings at the request of a unit or organization commander to recover military property from a person who fails to return the property as provided in section 29A.34.

14. Hear and decide objections to a nomination filed with the county election commissioner as provided in section 44.7.

15. Review the report and recommendations of the campaign finance disclosure commission and proceed to institute the recommended actions or advise the commission that prosecution is not merited as provided in section 56.11, subsection 4.

16. Prosecute or assist in the prosecution of actions to remove public officers from office as provided in section 66.11.

17. Institute legal proceedings against persons who violate laws administered by the bureau of labor as provided in section 91.11.

18. Investigate complaints and prosecute violations of child labor laws as provided in section 92.22.

19. Prosecute violations of employment security laws and rules as provided in section 96.17, subsection 2.

20. Assist, at the request of the director of revenue, in the enforcement of cigar and tobacco tax laws as provided in sections 98.32 and 98.49.

21. Prosecute nuisances as provided in section 99.24.

22. Attend the hearing, interrogate witnesses, and advise a license-issuing authority relating to the revocation of a license for violation of gambling laws as provided in section 99A.7. The county attorney shall also represent the license-issuing authority in appeal proceedings taken under section 99A.6.

23. Represent the state fire marshal in legal proceedings as provided in section 100.20.

24. Prosecute, at the request of the state conservation director or an officer appointed by the state conservation commission, violations of the state fish and game laws as provided in section 109.35.

25. Assist the division of beer and liquor law enforcement in the enforcement of beer and liquor laws as provided in section 123.14. The county attorney shall also prosecute nuisances, forfeitures of abatement bonds, and foreclosures of the bonds as provided in sections 123.62 and 123.86.

26. At the direction of the board, proceed to collect the costs of the care and treatment of substance abusers as provided in section 125.51.

27. Serve as attorney for the county health care facility administrator in matters relating to the administrator's service as a conservator or guardian for a resident of the health care facility as provided in section 135C.24.

28. Commence civil action to remove or abate a nuisance, or an unsanitary, unhealthful, or objectionable condition complained of by the state department of health as provided in section 135D.17.

29. At the request of the commissioner of public health, commence legal action to enjoin the unlawful use of radiation-emitting equipment as provided in section 136C.5.

30. Prosecute, at the request of the attorney general, violations of the law regulating practice professions as provided in section 147.92.

31. Prosecute violations of the Iowa veterinary practice Act as provided in section 169.19.

32. Assist the department of agriculture in the enforcement of the food establishment laws, the Iowa food service sanitation code, and the Iowa hotel sanitation code as provided in sections 170.51, 170A.14 and 170B.18.

33. Institute legal procedures on behalf of the state to prevent violations of the corporate or partnership farming laws as provided in section 172C.3.

34. Prosecute violations of the Iowa dairy industry laws as provided in section 179.11.

35. Prosecute persons who fail to file an annual or special report with the secretary of agriculture under the meat and poultry inspection Act as provided in section 189A.17.

36. Co-operate with the secretary of agriculture in the enforcement of label requirements for food packages as provided in section 191.7.

37. Prosecute violations of the Iowa commercial feed law of 1974 as provided in section 198.13, subsection 3.

38. Co-operate with the secretary of agriculture in the enforcement of the agricultural seed laws as provided in section 199.14.

39. Prosecute violations of the Iowa fertilizer law as provided in section 200.18, subsection 4.

40. Prosecute violations of the Iowa drug and cosmetic Act as requested by the board of pharmacy examiners as provided in section 203A.7.

41. Provide the Iowa department of corrections with information relating to the background and criminal acts committed by each person sentenced to a state correctional institution from the county as provided in section 217A.52.

42. Carry out duties relating to the appointment of a guardian or commitment of a mentally retarded person as provided in section 222.18.

43. Proceed to collect, as requested by the county, the reasonable costs for the care, treatment, training, instruction, and support of a mentally retarded person from parents or other persons who are legally liable for the support of the mentally retarded person as provided in section 222.82.

44. At the direction of a district court judge, investigate the financial condition of a person under commitment proceedings to the state psychiatric hospital or those legally responsible for the person as provided in section 225.13.

45. Appear on behalf of the director of the division of mental health in support of an application to transfer a mentally ill person who becomes incorrigible and dangerous from a state hospital for the mentally ill to the Iowa security medical facility as provided in section 226.30.

46. Carry out duties relating to the hospitalization of persons for mental illness as provided in section 229.12.

47. Carry out duties relating to the collection of the costs for the care, treatment, and support of mentally ill persons as provided in sections 230.25 and 230.27.

48. Carry out duties relating to the care, guidance, and control of juveniles as provided in chapter 232.

49. Prosecute violations of law relating to aid to dependent children, medical assistance, and supplemental assistance as provided in sections 239.20, 249.13 and 249A.14.

50. Commence legal proceedings to enforce the rights of children placed under foster care arrangements as provided in section 242.11.

51. Commence legal proceedings, at the request of the superintendent of the Iowa juvenile home, to recover possession of a child as provided in section 244.12.

52. Furnish, upon request of the governor, a copy of the minutes of evidence and other pertinent facts relating to an application for a pardon, reprieve, commutation, or remission of a fine or forfeiture as provided in section 248.9.

53. Carry out duties relating to the provision of medical and surgical treatment for an indigent person as provided in sections 255.7 and 255.8.

54. Commence legal proceedings to recover school funds as provided in section 302.33.

55. At the request of the state geologist, commence legal proceedings to obtain a copy of the map of a mine or mine extension as provided in section 305.13.

56. Enforce, upon complaint, the performance of duties by officers charged with the responsibilities of controlling or eradicating noxious weeds as provided in section 317.23.

57. Commence legal proceedings to remove billboards and signs which constitute a public nuisance as provided in section 319.11.

58. At the request of the director of transportation, petition the district court to enforce the habitual offender law as provided in section 321.556.

59. Assist, upon request, the transportation regulation authority's legal counsel or the department of transportation's general counsel in the prosecution of violations of common carrier laws and regulations as provided in section 327C.30.

60. Enforce the control of vegetation on railroad property by the railroad corporations as provided in section 327F.29.

61. Appoint a member of the civil service commission for deputy sheriffs as provided in section 341A.2 or 341A.3.

62. Represent the civil service commission for deputy sheriffs in civil suits initiated by the commission for the proper enforcement of the civil service law as provided in section 341A.16.

63. Present to the grand jury at its next session a copy of the report filed by the division of corrections of the department of human services of its inspection of the jails in the county as provided in section 356.43.

64. Represent the township trustees in counties having a population of less than twenty-five thousand except when the interests of the trustees and the county are adverse as provided in section 359.18.

65. Represent the assessor and the board of review in legal proceedings relating to assessments as provided in section 441.41.

66. Represent the state in litigation relating to the inheritance tax if requested by the department of revenue as provided in section 450.1.

67. Institute proceedings to enjoin persons from violating water treatment laws as provided in section 455B.224.

68. Conduct legal proceedings relating to the condemnation of private property as provided in section 472.2.

69. Prosecute persons erecting or maintaining an electric transmission line across a railroad track except as authorized by the state commerce commission at the request of the commission as provided in section 478.29.

70. Institute legal proceedings against violations of insurance laws as provided in sections 511.7 and 515.93.

71. Assist, as requested by the attorney general, with the enforcement of the Iowa competition law as provided in section 553.7.

72. Initiate proceedings to enforce provisions relating to the recordation of conveyances and leases of agricultural land as provided in section 558.44.

73. Petition, in the name of the state, against the owner of any land subject to escheat as provided in sections 567.5 and 567.6.

74. Bid on real estate on behalf of the county when necessary to secure the county from loss as provided by section 569.2.

75. Demand payment or security for a debt owed the state as provided in section 641.1.

76. Seek an attachment against the property of a person owing money to the state as provided in section 641.2.

77. Prosecute a complaint to establish paternity and compel support for a child as provided in section 675.19.

78. Give to an accused person a copy of each report of the findings of the criminalistics laboratory in the investigation of an indictable criminal charge against the accused as provided in section 691.4.

79. Notify state and local governmental agencies issuing licenses or permits, of a person's conviction of obscenity laws relating to minors as provided in section 728.8.

80. In the case of appeal from the district court, furnish the attorney general with a copy of the notice of appeal and pertinent material from the district court proceedings as provided in section 814.8.

81. Certify fees and mileage payable to witnesses subpoenaed by the county attorney before the district court as provided in section 815.3.

82. Carry out duties relating to extradition of fugitive defendants as provided in chapter 818.

83. Advise the director of the judicial district department of correctional services of the facts and circumstances surrounding the crime committed and the record and history of the defendant granted probation as provided in section 907.8.

84. Bring an action in the nature of quo warranto as provided in rule of civil procedure 300.

85. Perform other duties required by state law.

(83 Acts, ch 96, § 111, 112, 157, 159) SF 464

Effective October 1, 1983

Subsection 41 struck

Subsection 41 (formerly 42) amended and following subsections renumbered

Subsection 63 (formerly 64) amended

331.757 Temporary and full-time assistants.

1. The county attorney may employ, with the approval of a judge of the district court, a temporary assistant to assist in the trial of a person charged with a felony. The temporary assistant shall be paid a reasonable compensation as determined by the board upon certification of the services rendered by the district judge before whom the defendant was tried.

2. The county attorney may appoint, with the approval of the board, an assistant county attorney to serve as a full-time prosecutor. A full-time prosecutor shall refrain from the private practice of law. The county attorney shall determine the compensation paid to a full-time prosecutor within the budget set for the county attorney's office by the board. The annual salary of an assistant county attorney shall not exceed eighty-five percent of the maximum annual salary of a full-time county attorney.

(83 Acts, ch 123, § 150, 209) HF 628

Subsection 1 amended

331.775 Definitions. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.776 Office of public defender.

1. The board, by resolution, may establish or abolish the office of public defender. Two or more counties within the same judicial district, by agreement executed under chapter 28E, may establish an office of public defender to serve the counties.

2. The public defender shall be an attorney admitted to the practice of law before the Iowa supreme court. When a vacancy exists in the office of public defender, the

district court judges of the judicial district containing the county in which the public defender is to serve, sitting en banc, shall nominate two attorneys qualified to serve as public defenders and certify their names to the board of each county in which the public defender is to serve. Within thirty days after the certification, the supervisors shall appoint one of the nominees by majority vote of each board.

3. The term of office of the public defender is six years.

4. The board shall determine the compensation of the public defender, subject to limitations established by the general assembly or the supreme court.

5. a. The board shall provide suitable furniture, equipment, and supplies for the office of the public defender out of funds appropriated to the supreme court and allocated by the supreme court to the county for this purpose. If a public defender office serves more than one county, the supreme court shall select one of the counties to perform the duties required by this paragraph. The board shall account to the supreme court for allocations and expenditures under this paragraph.

b. The board shall approve the appointment and compensation of deputy public defenders and other employees of the public defender office, subject to limitations established by the general assembly or the supreme court. The compensation and expenses of the public defender, deputy public defenders, and employees of the public defender office shall be paid from funds appropriated to the supreme court and allocated by the supreme court to the county for this purpose. The board shall account to the supreme court for allocations and expenditures under this paragraph.

6. The board may require a public defender or assistant public defender to devote full time to the discharge of the duties of office and not engage in the private practice of law. A public defender or assistant public defender may be a member of a law partnership or a professional corporation on leave of absence.

7. A public defender or assistant public defender shall not refer any legal matter or litigation to a particular lawyer or recommend or suggest to another person the employment of a particular lawyer to counsel, conduct, defend, or prosecute a legal matter if the county is or is likely to be a party to the litigation or have a substantial interest in the legal matter, or receive any fee or compensation for the referral, recommendation, or suggestion. However, upon request, the public defender or assistant public defender may recommend a lawyer to a court, governmental agency, or legal aid society.

(83 Acts, ch 186, § 10092—10094, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 4 amended

Subsection 5 struck and rewritten

Subsection 8 struck

(83 Acts, ch 123, § 151, 209) HF 628

Subsection 8 struck

331.777 Powers and duties of a public defender. The public defender:

1. Shall represent without fee each indigent person who is under arrest or charged with a crime if the indigent person requests it or the court orders it. The public defender shall counsel and defend a client at every stage of the criminal proceedings and prosecute before or after conviction any appeals or other remedies which the public defender considers to be in the interest of justice.

2. Shall make the determination of indigence as required under section 815.9 prior to the initial arraignment or other initial court appearance. At or after initial arraignment or other initial court appearance, a determination of indigence shall be made by the court. The financial statement required under section 815.9 shall be filed in the indigent person's court file and retained as a permanent part of the file.

3. Shall make an annual report to the judges of the district court sitting in any county in which the public defender serves, the attorney general, and the board of any county in which the public defender serves. The report shall include all cases handled by the public defender during the preceding year.

4. May appoint the number of assistant public defenders, clerks, investigators,

stenographers, and other employees as approved by the board. An assistant public defender must be an attorney licensed to practice before the Iowa supreme court. The appointments shall be made in the manner prescribed by the board which shall determine the compensation of the appointees.

(83 Acts, ch 186, § 10095, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
Subsection 2 amended

331.778 Court-appointed attorneys. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

331.901 General duties of county officers.

1. Except as otherwise provided by state law, a county officer shall furnish to the governor or either house of the general assembly, upon their request, any information which the officer possesses.

2. A county officer shall not appear as an agent, attorney, or solicitor for another person in a matter pending before the board.

3. If a county officer who is required to report the collection of fees to the board neglects or refuses to make the report, the board shall employ an expert accountant to examine the books, papers, and accounts of the delinquent officer and to make the required report. The expense of employing the expert accountant shall be charged to the delinquent officer and may be collected upon the official bond of the officer.

4. A county officer, deputy officer, or employee shall not take, purchase, receive in payment, or exchange a warrant, scrip, or other evidence of the county's indebtedness or demand against the county for an amount less than the amount expressed on the face of the warrant, scrip, or other evidence of indebtedness or demand, plus the accrued interest.

5. A county or township officer or employee shall not appropriate, give, or loan public funds to or in favor of an institution, school, association, or object which is under ecclesiastical or sectarian management or control.

6. All reports and forms required to be submitted by a county officer to a state officer or agency shall be submitted on standardized forms furnished by the state officer or agency. The state officers and agencies which receive reports and forms from county officers shall consult with the state comptroller and the office for planning and programming, shall devise standardized reports and forms which will permit computer processing of the information submitted, and shall distribute the standardized reports and forms to the county officers.

7. A county officer, deputy officer, or employee who violates subsection 4 or 5 is guilty of a simple misdemeanor.

(83 Acts, ch 186, § 10096, 10201) SF 495

Subsection 6, paragraph b amended

(83 Acts, ch 123, § 152, 209) HF 628

Subsection 6 struck and following subsections renumbered

331.902 Collection and disposition of fees.

1. Unless otherwise specifically provided by statute, the fees and other charges collected by the auditor, treasurer, recorder, and sheriff, and their deputies or employees, belong to the county.

2. Each elective officer specified in subsection 1 shall keep a fee book as a part of the permanent county records of the office. The book shall be ruled in appropriate columns for the date, kind of service, for whom rendered, and the amount of fee or charge collected and, when the fee is for recording an instrument, the names of the parties to the instrument. The required information shall be recorded in the fee book when the service is rendered.

3. Each elective officer specified in subsection 1 shall make a quarterly report to the board showing, by type, the fees collected during the preceding quarter. The

officer shall pay quarterly to the county treasury the fees and charges collected during the preceding quarter, receive duplicate receipts for the payment, and file one of the receipts in the office of the auditor. The officer shall note in the officer's fee book the date and amount of each payment into the county treasury.

4. When examining, settling, or verifying reports or accounts of fees or other monetary receipts of the county under section 331.401, subsection 1, paragraph "r", this section, or chapter 452, the cash on hand in the office of the county officer or employee subject to the settlement or examination need not be counted in the presence of, or by, the board of supervisors or other examining county officer. This section does not prohibit the actual counting of cash on hand in a county at the time of the examination or settlement if the examining authority requests the actual count.

(83 Acts, ch 186, § 10097, 10201) SF 495

Subsection 1 amended

(83 Acts, ch 6, § 1) SF 132

NEW subsection 4

331.903 Appointment of deputies, assistants and clerks.

1. The auditor, treasurer, recorder, sheriff, and county attorney may each appoint, with approval of the board, one or more deputies, assistants, or clerks who do not hold another county office and for whose acts the principal officer is responsible. The number of deputies, assistants, and clerks for each office shall be determined by the board and the number and approval of each appointment shall be adopted by a resolution recorded in the minutes of the board.

2. When an appointment has been approved by the board, the principal officer making the appointment shall issue a written certificate of appointment which shall be filed and kept in the office of the auditor. A certificate of appointment may be revoked in writing by the principal officer making the appointment, which revocation shall also be filed and kept in the office of the auditor.

3. Each deputy officer shall give bond in an amount determined by the officer who has the authority to approve the bond of the deputy's principal officer, with sureties to be approved by that officer. Upon approval, the bond shall be filed and kept in the office of the auditor. Each deputy officer shall take the same oath as the deputy's principal officer which shall be endorsed on the certificate of appointment. The bond of a deputy sheriff shall be either a bond or liability policy as required by the sheriff with the approval of the board.

4. Each deputy officer, assistant and clerk shall perform the duties assigned by the principal officer making the appointment. During the absence or disability of the principal officer, the first deputy shall perform the duties of the principal officer.

5. The auditor may also appoint temporary assistants as provided in section 331.503 and the county attorney may appoint temporary assistants or a full-time prosecutor as provided in section 331.757.

(83 Acts, ch 186, § 10098, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 1 amended

331.904 Salaries of deputies, assistants and clerks.

1. The annual salary of the first and second deputy officer of the office of auditor, treasurer, and recorder, and the deputy in charge of the motor vehicle registration and title division shall each be an amount not to exceed eighty percent of the annual salary of the deputy's principal officer. In offices where more than two deputies are required, each additional deputy shall be paid an amount not to exceed seventy-five percent of the principal officer's salary, except that in a county having two locations at which the district court is held, an additional deputy clerk shall be paid an amount not to exceed eighty percent of the principal officer's salary. The amount of the annual salary of each deputy shall be certified by the principal officer to the board and, if a deputy's salary does not exceed the limitations specified in this subsection,

the board shall certify the salary to the auditor. The board shall not certify a deputy's salary which exceeds the limitations of this subsection.

2. Each deputy sheriff shall receive an annual base salary as determined by the board. Upon certification by the sheriff, the board shall review, and may modify, the annual base salary of each deputy before certifying it to the auditor. The annual base salary of a first or second deputy sheriff shall not exceed eighty-five percent of the annual base salary of the sheriff. The annual base salary of any other deputy sheriff shall not exceed the annual base salary of the first or second deputy sheriff except that in counties over two hundred fifty thousand population, the annual base salary of any additional deputies shall not exceed seventy-five percent of the annual base salary of the sheriff. The total annual compensation including the annual base salary, overtime pay, longevity pay, shift differential pay, or other forms of supplemental pay and fringe benefits received by a deputy sheriff shall be less than the total annual compensation including fringe benefits received by the sheriff. As used in this subsection, "base salary" means the basic compensation excluding overtime pay, longevity pay, shift differential pay, or other supplemental pay and fringe benefits.

3. The annual salary of each assistant county attorney shall be determined by the county attorney within the budget set for the county attorney's office by the board. The salary of an assistant county attorney shall not exceed eighty-five percent of the maximum salary of a full-time county attorney. The county attorney shall inform the board of the full-time or part-time status of each assistant county attorney. In the case of a part-time assistant county attorney, the county attorney shall inform the board of the approximate number of hours per week the assistant county attorney shall devote to official duties.

4. The board shall determine the compensation of extra help and clerks appointed by the principal county officers.

5. The deputy officers, assistants, clerks, and other employees of the county are also entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(83 Acts, ch 34, § 1) SF 138

Subsection 1 amended

(83 Acts, ch 186, § 10099, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See Code editor's note to section 12.10 at the end of this Supplement

Subsections 1 and 6 amended

(83 Acts, ch 123, § 153, 209) HF 628

Subsection 6 struck

331.907 Compensation schedule — preparation and adoption.

1. The annual compensation of the auditor, treasurer, recorder, sheriff, county attorney, and supervisors shall be determined as provided in this section. The county compensation board annually shall review the compensation paid to comparable officers in other counties of this state, other states, private enterprise, and the federal government. The county compensation board shall prepare a recommended compensation schedule for the elective county officers. Following completion of the compensation schedule, the county compensation board shall publish the compensation schedule in a newspaper having general circulation throughout the county. The publication shall also include a public notice of the date and location of a hearing to be held by the county compensation board not less than one week nor more than three weeks from the date of notice. Upon completion of the public hearing, the county compensation board shall prepare a final compensation schedule recommendation.

2. Annually during the month of December, the county compensation board shall transmit its recommended compensation schedule to the board of supervisors. The board of supervisors shall review the recommended compensation schedule and determine the final compensation schedule for the elected county officers which shall not exceed the recommended compensation schedule. In determining the final

compensation schedule if the board of supervisors wishes to reduce the amount of the recommended compensation schedule, the annual salary or compensation of each elected county officer shall be reduced an equal percentage. A copy of the final compensation schedule adopted by the board of supervisors shall be filed with the county budget at the office of the state comptroller. The final compensation schedule takes effect on July 1 following its adoption by the board of supervisors.

3. The elected county officers are also entitled to receive their actual and necessary expenses incurred in performance of official duties of their respective offices.

4. In counties having two courthouses, a principal elected county officer and the principal officer's first deputy or assistant may agree in writing to a division of their annual salaries. The division shall not allow for payment to the elected officer and the first deputy or assistant which is greater than the sum of the two salaries otherwise authorized by law. Upon certification to the board by the elected officer involved, the board shall certify to the auditor the annual salaries certified by the elected officer.

(83 Acts, ch 186, § 10100, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsections 1 and 5 amended

(83 Acts, ch 123, § 154, 209) HF 628

Subsection 5 struck

CHAPTER 333A

COUNTY FINANCE COMMITTEE

333A.4 Powers and duties of the committee. The committee shall:

1. Design budget forms required by section 331.434 and annual financial report forms required by section 331.403 for all county funds.

2. Establish guidelines for program budgeting and accounting and the preparation of capital improvement plans. It shall, where practicable, use recommendations of the national council on governmental accounting or its successor organization.

3. Review and comment on county budgets to county officials and provide assistance to enable counties to improve upon and use sound financial procedures.

4. Conduct studies of county revenues and expenditures.

5. Advise and make recommendations annually to the governor and the general assembly concerning county budgets and finance.

6. Promulgate its rules in compliance with chapter 17A.

(83 Acts, ch 123, § 155, 209) HF 628

Subsections 1 and 2 amended

333A.6 Committee abolished. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

CHAPTER 341A

CIVIL SERVICE FOR DEPUTY COUNTY SHERIFFS

341A.20 Budget. The county board of supervisors of each county shall provide in the county budget for each fiscal year a sum equal to one-half of one percent of the preceding year's total payroll of those included under the jurisdiction and scope of this chapter. The funds so provided shall be used for the support of the commission. Any part of the funds not expended for the support of the commission during the fiscal year shall be returned to the county, or counties, according to the ratio of contribution, on the first day of January which is not a Saturday, Sunday, or holiday following the end of the fiscal year.

(83 Acts, ch 123, § 156, 209) HF 628

Amended

CHAPTER 344 COUNTY BUDGET

Repealed by 83 Acts, ch 123, § 206, 209 (HF 628)

CHAPTER 345 SUBMISSION OF QUESTIONS TO VOTERS

345.1 Submission of proposals to the electors. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

CHAPTER 346A COUNTY HEALTH CENTER

346A.1 Definitions. When used in this chapter, unless the context otherwise requires:

1. *"Board"* means the board of supervisors of the county.
2. *"Health center"* means a building or buildings, together with necessary equipment, furnishings, facilities, accessories and appurtenances and the site or sites therefor used primarily for the purposes of providing centralized locations, at which a county may:

- a. Provide those health, welfare and social services which such a county is presently or hereafter authorized or required by law to provide;

- b. Lease space in such building or buildings to other public corporations, public agencies and private nonprofit agencies which provide health, welfare and social services.

3. *"Project"* means the acquisition by purchase or construction of health centers, additions thereto and facilities therefor, the reconstruction, completion, equipment, improvement, repair or remodeling of health centers, additions thereto and facilities therefor, and the acquisition of property therefor of every kind and description, whether real, personal or mixed, by gift, purchase, lease, condemnation or otherwise and the improvement of the property. "Project" also means the use of funds for the provision of health services by local boards of health pursuant to chapter 137 and the provision of health, welfare or social services which a county is permitted or required by law to provide.

(83 Acts, ch 12, § 1, 4) SF 15

Effective April 12, 1983

Subsection 3 amended

346A.2 Authorized in certain counties. Counties may undertake and carry out any project as defined in section 346A.1, and the boards may operate, control, maintain and manage health centers and additions to and facilities for health centers. The boards may appoint committees, groups, or operating boards as they deem necessary and advisable to facilitate the operation and management of health centers, additions and facilities. A board may lease space in any health center to other public corporations, public agencies and private nonprofit agencies engaged in furnishing health, welfare and social services which lease shall be on terms and conditions the board deems advisable. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with section 331.341, subsection 1.

(83 Acts, ch 12, § 2, 4) SF 15

Effective April 12, 1983

Counties permitted to levy for services provided under section 346A.1, subsection 3, for fiscal year beginning July 1, 1983

Amended

(83 Acts, ch 123, § 157, 209) HF 628

Effective for budgeting and accounting procedures for fiscal year beginning July 1, 1984

See Code editor's note at the end of this Supplement

Amended

CHAPTER 347

COUNTY PUBLIC HOSPITALS

347.16 Treatment in county hospital — terms.

1. Any resident of a county in this state who is sick or injured shall be entitled to care and treatment in any public hospital established and maintained by that county under this chapter, so long as that person observes the rules of conduct prescribed by the board of hospital trustees. Each patient admitted under this subsection, or the person legally liable for that patient's support, shall pay to the board of hospital trustees reasonable compensation for that patient's care and treatment according to the rules established by the board, unless subsection 2 is applicable.

2. Free care and treatment shall be furnished in a county public hospital to any sick or injured person who fulfills the residency requirements under section 47.4, subsection 4, in the county maintaining the hospital, and who is indigent. The board of hospital trustees shall determine whether a person is indigent and entitled to free care under this subsection, or may delegate that determination to the general relief director or the office of the department of human services in that county, subject to such guidelines as the board may adopt in conformity with applicable statutes.

3. Care and treatment may be furnished in a county public hospital to any sick or injured person who has legal settlement outside the county which maintains the hospital, subject to such policies and rules as the board of hospital trustees may adopt. If care and treatment is provided under this subsection to a person who is indigent, the county in which that person has legal settlement shall pay to the board of hospital trustees the fair and reasonable cost of the care and treatment provided by the county public hospital unless the cost of the indigent person's care and treatment is otherwise provided for.

4. A county public hospital may, but shall not be required to, provide care and treatment for persons afflicted with tuberculosis. If treatment for tuberculosis is provided by a county public hospital, the provisions of this section shall be applicable to persons admitted to that hospital for such treatment.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2 amended

CHAPTER 349

OFFICIAL NEWSPAPERS

349.18 Supervisors' proceedings — each payee listed — publication.

All proceedings of each regular, adjourned, or special meeting of boards of supervisors, including the schedule of bills allowed, shall be published immediately after the adjournment of the meeting of the boards, and the publication of the schedule of the bills allowed shall show the name of each individual to whom the allowance is made and for what purpose the bill is filed and the amount allowed, except that names of persons receiving relief shall not be published. The county auditor shall furnish a copy of the proceedings to be published, within one week following the adjournment of the board.

(83 Acts, ch 123, § 158, 209) HF 628

Amended

CHAPTER 351

DOGS AND LICENSING THEREOF

351.15 Assessors to list dogs — fees. The assessor shall, at the time of listing property for assessment, cause to be listed and return to the county auditor the names of all persons who own or harbor dogs, and indicate on the list whether the dogs are male, female, or spayed, and their number.

(83 Acts, ch 123, § 159, 209) HF 628

Amended

351.28 Liability for damages. The owner of a dog shall be liable to an injured party for all damages done by the dog, when the dog is caught in the action of worrying, maiming, or killing a domestic animal, or the dog is attacking or attempting to bite a person, except when the party damaged is doing an unlawful act, directly contributing to the injury. This section does not apply to damage done by a dog affected with hydrophobia unless the owner of the dog had reasonable grounds to know that the dog was afflicted with hydrophobia and by reasonable effort might have prevented the injury.

(83 Acts, ch 117, § 1) SF 477

Amended

CHAPTER 356

JAILS

356.14 Refractory prisoners. If any person confined in a jail is refractory or disorderly or willfully destroys or injures any part of the jail or of its contents, the sheriff may secure the person or cause the person to be kept in solitary confinement not more than ten days for any one offense, during which time the person may be fed minimum diet requirements as established by the Iowa department of corrections unless other food is necessary for the preservation of the person's health.

(83 Acts, ch 96, § 113, 159) SF 464

Effective October 1, 1983

Amended

356.36 Establishment of jail standards. The Iowa department of corrections, in consultation with the Iowa state sheriff's association and the Iowa board of supervisors association, shall draw up minimum standards for the regulation of jails and alternative jails. When completed by the department, the standards shall be adopted as rules pursuant to chapter 17A.

The sole remedy for violation of a rule adopted pursuant to this section, is by a proceeding for compliance initiated by request to the Iowa department of corrections. A violation of a rule does not permit any civil action to recover damages against the state of Iowa, its departments, agents, or employees or any county, its agents or employees.

(83 Acts, ch 96, § 114, 159) SF 464

Effective October 1, 1983

Amended

356.37 Moratorium on jail standards. The administrative rules adopted by the department of human services establishing minimum jail standards as provided in section 356.36 shall not be implemented or enforced until a needs assessment of the individual county jails has been completed by the Iowa crime commission.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

356.43 Inspection by department — report of inspection. The Iowa department of corrections and its inspectors and agents shall make periodic inspections of each jail and all facilities established pursuant to chapter 356A, and officially notify the county board of supervisors in writing to comply fully with section 356.36.

The Iowa department of corrections may order the governing body of a political subdivision to either correct violations found in the inspection of a jail within a designated period, or may prohibit the confinement of prisoners in the jail. If the governing body fails to comply with the order within the period designated, the Iowa department of corrections may schedule a hearing on the alleged violation. The department may subpoena witnesses, documents, and other information deemed necessary to determine the validity of the alleged violation. The department shall upon written request from the governing body of the political subdivision grant representatives of the political subdivision the right to appear before the department at the hearing. The representatives have the right to counsel and may produce witnesses and present statements, documents, and other information with respect to the alleged violation for consideration at the hearing.

The department after the hearing shall affirm, revoke, or modify the original order. If the order is upheld, the department may include a schedule for correction of the violations and designate the date by which each violation shall be corrected.

If the political subdivision does not comply with the order within the designated period, the department may petition the attorney general to institute proceedings to enjoin the political subdivision from confining prisoners in the jail and require the transfer of prisoners to a jail declared by the director to be suitable for confinement. The county or municipality from which prisoners are transferred is liable for the cost of transfer and expenditures incurred in the confinement of prisoners in the jail to which transferred. Following inspection of any county jail, a report of the inspection shall be filed with the director of the Iowa department of corrections, and a copy shall be filed with the sheriff, the county board of supervisors, and one copy with the county attorney, which shall be presented at the next session of the grand jury of that county.

(83 Acts, ch 96, § 115, 159) SF 464

Effective October 1, 1983

Amended

356.45 Expense at regional detention facility. Repealed by 83 Acts, ch 96, § 156, 159. (SF 464)

Effective October 1, 1983

356.46 Time off for good behavior. Every prisoner in the county jail may, upon the recommendation of the sheriff or person in charge of the detention of the prisoner, and at the discretion of the sentencing judge, receive a reduction of sentence in an amount to be determined by the judge, if:

1. No infraction of the rules of discipline of the county jail or of the laws of the state has been recorded against him since the beginning of his incarceration; and
2. He has performed in a faithful manner the duties assigned to him.

(83 Acts, ch 78, § 1) SF 53

Unnumbered paragraph 1 amended

CHAPTER 356A

COUNTY DETENTION FACILITY

356A.2 Contract. If the board of supervisors contracts with a public or private nonprofit agency or corporation for the establishment and maintenance of such a facility, the contract shall state the charge per person per day to be paid by the county; that each facility shall insure the performance of the duties of the keeper as defined in section 356.5; the activities and service to be provided those detained or confined; the extent of security to be provided in the best interests of the community; the maximum number of persons that can be detained or committed at any one time; the number of employees to be provided by the contracting private nonprofit agency or corporation for the maintenance, supervision, control, and security of persons detained or confined in the facility; and any other matters deemed necessary by the supervisors. A contract shall be for a period not to exceed two years. The board of supervisors shall deliver a copy of the contract to each judicial officer of the district which includes that county.

(83 Acts, ch 186, § 10101, 10201) SF 495

Amended

356A.3 Alternative confinement of prisoners. A district judge may sentence and commit a person to a facility established and maintained pursuant to section 356A.1 or 356A.2 instead of the county jail. A district judge may order the transfer of a person sentenced and committed to the county jail to such a facility upon the judge's own motion, the motion of the sentenced and committed person, or the motion of the sheriff. The original order of commitment or the order of transfer to the facility shall set forth the terms and conditions of the detention or commitment and that the detained or committed person shall abide by the terms and conditions of this chapter and the rules of the facility to which committed or transferred. The order shall be read to the detained, committed, or transferred person in open court. The committing court or a district judge may order a person who has been detained, committed, or transferred to such a facility to be transferred to the county jail if, upon hearing, the court determines the person has been refractory or disorderly, has willfully destroyed or injured any property in the facility, or has violated any of the terms and conditions of the order of detention, commitment, or transfer or the provisions of this chapter or the rules of the facility where the person was detained or committed. Any violations of the order of detention, commitment, or transfer shall further be punished as contempt of court pursuant to chapter 665. Section 719.4 is applicable to any person detained, committed, or transferred to a facility established and maintained pursuant to this chapter. The county or city to which the cause originally belonged is liable for the expense of the original detention, commitment, or transfer and the subsequent expenses of maintaining the person in the facility.

(83 Acts, ch 123, § 160, 209) HF 628

Amended

356A.6 Transfer. A judicial officer of the district court may originally commit a person to the county jail to serve any part of the sentence pronounced, and thereafter the person may be transferred to a facility established and maintained pursuant to section 356A.1 or 356A.2.

(83 Acts, ch 186, § 10102, 10201) SF 495

Amended

CHAPTER 358A

COUNTY ZONING COMMISSION

358A.9 Administrative officer. The board of supervisors shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of supervisors. The administrative officer may be a person holding other public office in the county, or in a city or other governmental subdivision within the county, and the board of supervisors is authorized to pay to the officer compensation as it deems fit.

(83 Acts, ch 123, § 161, 209) HF 628

Amended

358A.25 Zoning for family homes.

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. *a. "Developmental disability" or "developmentally disabled"* means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

b. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster family home licensed under chapter 237.

c. "Permitted use" means a use by right which is authorized in all residential zoning districts.

d. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding the optional provision in section 358A.1 and any other provision of this chapter to the contrary, a county, county board of supervisors, or a county zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the county. A county, county board of supervisors, or a county zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, a new family home shall not be located within one-fourth of a mile from another family home. Section 135C.23, subsection 2 shall apply to all residents of a family home.

4. A restriction, reservation, condition, exception, or covenant in a subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a county which permits residential use of property but prohibits the

use of property as a family home for developmentally disabled persons, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

(83 Acts, ch 11, § 1) HF 108

NEW section

CHAPTER 358B

COUNTY LIBRARIES

358B.8 Powers. Said board of library trustees shall have and exercise the following powers:

1. To meet and organize by the election of one of their number as president of the board, and by the election of a secretary and such other officers as the board may deem necessary.

2. To have charge, and supervision of the public library, its appurtenances and fixtures, and rooms containing the same, directing and controlling all the affairs of such library.

3. To employ a librarian, such assistants and employees as may be necessary for the proper management of said library, and fix their compensation; but, prior to such employment, the compensation of such librarian, assistants, and employees shall be fixed for the term of employment by a majority of the members of said board voting in favor thereof.

4. To remove such librarian, assistants, or employees by a vote of two-thirds of such board for misdemeanor, incompetency, or inattention to the duties of such employment.

5. To select and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, furniture, fixtures, stationery, and supplies for such library.

6. To authorize the use of such libraries by school corporations or by nonresidents of the area which is taxed to support such libraries and to fix charges therefor.

7. To make and adopt, amend, modify, or repeal bylaws, rules, and regulations, not inconsistent with law, for the care, use, government, and management of such library and the business of said board, fixing and enforcing penalties for the violation thereof.

8. To have exclusive control of the expenditures for library purposes as provided by law, and of the expenditures of all moneys available by gift or otherwise for the erection of library buildings. The board shall keep a record of its proceedings.

9. To accept gifts of any property, including trust funds; to take the title to said property in the name of said library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of said library.

(83 Acts, ch 123, § 162, 209) HF 628

Subsection 8 amended

358B.10 Library fund. All moneys received and set apart for the maintenance of the library shall be deposited in the treasury of the county and paid out upon warrants drawn by the county auditor upon requisition of the board of trustees, signed by its president and secretary.

Provided that where a free public library is maintained jointly by two or more counties, the library trustees may elect a library treasurer therefor, and it shall be the duty of the city and county treasurers to pay over to said library treasurer any and all library taxes that may be collected by them monthly.

Such library treasurer shall be required to furnish a bond conditioned as provided by section 64.2 in such amount as agreed upon by the boards of supervisors and the cost thereof shall be paid by the counties.

(83 Acts, ch 123, § 163, 209) HF 628

Unnumbered paragraph 1 amended

358B.13 Maintenance expense on proportionate basis. The maintenance of a county library shall be on a proportionate population basis whereby each taxing unit shall bear its share in proportion to its population as compared to the whole population of the county library district. The board of library trustees shall on or before January 10 of each year make an estimate of the amount it deems necessary for the maintenance of the county library and shall transmit the estimate in dollars to the boards of supervisors and to the city councils within the district. The entire rural area of each county in the library district shall be considered as a separate taxing unit. Each city which is a part of the county library district shall be considered as a separate taxing unit. The boards of supervisors and the city councils within the district shall review the estimate and upon approval by the boards of supervisors and all city councils in the district, each governing body shall determine the source of its share and include its share within its proposed budget. The council of each city in a county library district may make the necessary levies for library maintenance purposes.

(83 Acts, ch 123, § 164, 209) HF 628

Amended

358B.17 Historical association. If a local county historical association is formed in a county having a free public library, the trustees of the library may unite with the historical association and set apart the necessary room to care for articles which come into the possession of the association. The trustees may purchase necessary receptacles and materials for the preservation and protection of articles which are of a historical and educational nature.

(83 Acts, ch 123, § 165, 209) HF 628

Amended

358B.18 Contracts to use city library.

1. A school corporation, township, or county library district may contract for the use by its residents of a city library, but if a contract is made by a county board of supervisors or township trustees, it may only be for the residents outside of cities. A contract by a county shall supersede all contracts by townships or school corporations within the county outside of cities.

2. *a.* Contracts shall provide for the amount to be contributed. They may, by mutual consent of the contracting parties, be terminated at any time. They may also be terminated by a majority of the voters represented by either of the contracting parties, voting on a proposition to terminate which shall be submitted by the governing body upon a written petition of qualified voters in a number not less than five percent of those who voted in the area for president of the United States or governor at the last general election.

b. The proposition may be submitted at any election provided by law which covers the area of the unit seeking to terminate the contract. The petition shall be presented to the governing body not less than forty days before the election at which the question is to be submitted.

3. The board of trustees of any township which has entered into a contract shall at the April meeting levy a tax not exceeding six and three-fourths cents per thousand dollars of assessed valuation on all taxable property in the township to create a fund to fulfill its obligation under the contract.

4. *a.* Qualified electors of that part of any county outside of cities in a number of not less than twenty-five percent of those in the area who voted for president of the United States or governor at the last general election may petition the board of supervisors to submit the proposition of requiring the board to provide library service for them and their area by contract as provided by this section.

b. The board of supervisors shall submit the proposition to the voters of the county residing outside of cities at the next election, primary or general, provided that the petition has been filed not less than forty days prior to the date of the election at which the question is to be submitted.

c. If a majority of those voting upon the proposition favors it, the board of supervisors shall within thirty days appoint a board of library trustees from residents of the petitioning area. Vacancies shall be filled by the board.

d. The board of trustees may contract with any library for library use or service for the benefit of the residents and area represented by it.

(83 Acts, ch 123, § 166, 167, 209) HF 628

Subsection 2, paragraph a amended

Subsection 4 struck and following subsection renumbered

CHAPTER 359

TOWNSHIPS AND TOWNSHIP OFFICERS

359.46 Compensation of township trustees.

1. A township trustee while engaged in official business shall be compensated at an hourly rate established by the county board of supervisors. However, the county board of supervisors may establish a minimum daily pay rate for the time spent by a township trustee attending a scheduled meeting of township trustees. The compensation shall be paid by the county except:

a. When the trustee is assessing damages done by trespassing animals, payment of the compensation shall be made in the same manner as other costs in such cases.

b. When the trustee is acting as a fence viewer or in a case where provision is made for payment from a source other than the general fund of the county.

2. In cases where their fees or compensation are not paid by the county, the trustees shall be paid by the party requiring their services. The trustees shall attach to the report of their proceedings a statement specifying their services, directing who shall pay the fees or compensation, and specifying the amount to be paid by each party. A party who makes advance payment for the services of the trustees may take legal action to recover the amount of the payment from the party who is directed to pay by the trustees unless the party entitled to recovery under this subsection is paid within ten days after a demand for reimbursement is made.

(83 Acts, ch 123, § 168, 169, 209) HF 628

Subsection 1, unnumbered paragraph 1, and subsection 2 amended

CHAPTER 360

TOWNSHIP HALLS

360.3 Transfer of fund. When there are funds in the hands of a township clerk, raised under this chapter which are not desired for the purposes for which they were raised, the funds may be transferred to the general fund of a school district or districts pro rata in which the funds were raised, when a petition is presented to the trustees, signed by a majority of the qualified electors of the township, as shown by the election register or registers of the last preceding primary or general election held in the township. The transfer of funds shall be made by the township clerk upon order of the trustees after the filing of the petition with the clerk.

(83 Acts, ch 185, § 33, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

CHAPTER 361

WEATHER MODIFICATION

361.3 Program — contract. The weather modification board may:

1. Investigate and study the feasibility of artificial weather modification for the county.
2. Develop and administer an artificial weather modification program.
3. Contract with any public or private agency as provided in chapter 28E to carry out an artificial weather modification program.
4. Request the county board of supervisors to conduct a referendum authorizing the levy and collection of a tax not to exceed two cents per acre on agricultural land in the county for the administration of an artificial weather modification program.
5. Accept, receive, and administer grants, funds, or gifts from public or private agencies to develop or administer an artificial weather modification program.

(83 Acts, ch 123, § 170, 209) HF 628

Subsection 4 amended

CHAPTER 364

POWERS AND DUTIES OF CITIES

364.2 Vesting of power — franchises.

1. A power of a city is vested in the city council except as otherwise provided by a state law.

2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.

3. An exercise of a city power is not inconsistent with a state law unless it is irreconcilable with the state law.

4. a. A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, telephone, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.

b. No such ordinance shall become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose prior to the next regular city election. If a majority of those voting approves the proposal the city may proceed as proposed.

c. Notice of the election shall be given by publication as prescribed in section 49.53 in a newspaper of general circulation in the city.

d. The person asking for the granting, amending, extension, or renewal of a franchise shall pay the costs incurred in holding the election, including the costs of the notice. A franchise shall not be finally effective until an acceptance in writing has been filed with the council and payment of the costs has been made.

e. The franchise ordinance may regulate the conditions required and the manner of use of the streets and public grounds of the city, and it may, for the purpose of providing electrical, gas, heating, or water service, confer the power to appropriate and condemn private property upon the person franchised.

f. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer.

(83 Acts, ch 127, § 5) HF 312

Subsection 4 amended by adding NEW paragraph f .

364.3 Limitation of powers. The following are limitations upon the powers of a city:

1. A city council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance.

2. A city may not provide a penalty in excess of a one hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by municipal corporations shall be remitted quarterly to the county treasurer of the county in which the municipal corporation is located. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city.

3. A city may not set standards and requirements which are lower or less stringent than those imposed by state law, but may set standards and requirements which are higher or more stringent than those imposed by state law, unless a state law provides otherwise.

4. A city may not levy a tax unless specifically authorized by a state law.

(83 Acts, ch 123, § 171, 209) HF 628

Subsection 2 amended

364.13A Special assessments — lien and precedence. A special assessment levied pursuant to section 364.11 or 364.12, including all interest and penalties is a lien against the benefited property from the date of filing the schedule of assessments until the assessment is paid. Special assessments have equal precedence with ordinary taxes and are not divested by judicial sale.

(83 Acts, ch 90, § 20) HF 377

NEW section

364.13B Special assessments — procedures for levy. The procedures for making and levying a special assessment pursuant to this chapter and for an appeal of the assessment are the same procedures as provided in sections 384.59 through 384.67 and sections 384.72 through 384.75.

(83 Acts, ch 90, § 20) HF 377

NEW section

364.17 City housing codes.

1. A city with a population of fifteen thousand or more may adopt by ordinance the latest version of one of the following housing codes before January 1, 1981:

a. The uniform housing code promulgated by the International Conference of Building Officials.

b. The housing code promulgated by the American Public Health Association.

c. The basic housing code promulgated by the Building Officials Conference of America.

d. The standard housing code promulgated by the Southern Building Code Congress International.

e. Housing quality standards promulgated by the United States department of housing and urban development for use in assisted housing programs.

2. Every city with a population of fifteen thousand or more which has not adopted another housing code under this section by January 1, 1981, is subject to and shall be considered to have adopted the uniform housing code promulgated by the International Conference of Building Officials, as amended to January 1, 1980. A city which reaches a population of fifteen thousand, as determined after July 1, 1980, has six months after such determination to comply with this section.

3. A city which adopts or is subject to a housing code under this section shall adopt enforcement procedures, which shall include a program for regular rental inspections, rental inspections upon receipt of complaints, and certification of inspected rental housing, and may include but are not limited to the following:

a. A schedule of civil penalties or criminal fines for violations.

b. Authority for the issuance of orders requiring violations to be corrected within a reasonable time.

c. Authority for the issuance of citations pursuant to sections 805.1 to 805.5 upon a failure to satisfactorily remedy a violation.

d. Authority, if other methods have failed, for an officer to contract to have work done as necessary to remedy a violation, the cost of which shall be assessed to the violator and constitute a lien on the property until paid.

e. An escrow system for the deposit of rent which will be applied to the costs of correcting violations.

f. Mediation of disputes based upon alleged violations.

g. Injunctive procedures.

The enforcement procedures shall be designed to improve housing conditions rather than to displace persons from their homes.

h. Authority by ordinance to provide that no rent shall be recoverable by the owner or lessee of any dwelling which does not comply with the housing code adopted by the city until such time as the dwelling does comply with the housing code adopted by the city.

4. A city which is subject to the uniform housing code or which adopts another housing code under this section may provide reasonable variances for existing structures which cannot practicably meet the standards in the code but are not unsafe for habitation.

5. Cities may establish reasonable fees for inspection and enforcement procedures.

6. Cities with populations of less than fifteen thousand may comply with this section.

7. A city may adopt housing code provisions which are more stringent than those in the model housing code it adopts or to which it is subject under this section.

(83 Acts, ch 101, § 81) SF 136

Subsection 1, unnumbered paragraph 2 struck

364.18 Federal aid. Subject to applicable state or federal regulations in effect at the time of the city action, a city may accept contributions, grants, or other financial assistance from the state or federal government. Upon a finding of public purpose, the city may disburse the assistance to any person to be used for economic development projects, including but not limited to the purchase or improvement of land and buildings for residential, commercial, or industrial use.

(83 Acts, ch 48, § 1, 3) HF 533

Effective May 5, 1983

NEW section

CHAPTER 368

CITY DEVELOPMENT

368.21 Supervision of procedures. When an incorporation, discontinuance, or boundary adjustment is complete, the board shall supervise procedures necessary to carry out the proposal. In the case of an incorporation, the county commissioner of elections shall conduct an election for mayor and council of the city, who shall serve until their successors take office following the next regular city election. In the case of a discontinuance, the board shall publish two notices as provided in section 368.15 that it will receive and adjudicate claims against the discontinued city for a period of six months from the date of last notice, and shall cause necessary taxes to be levied against the property within the discontinued city to pay claims allowed. All records of a discontinued city shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the county treasury where the former city was located. In the case of boundary adjustments, the proper city officials shall carry out procedures necessary to implement the proposal.

(83 Acts, ch 123, § 172, 209) HF 628

Amended

CHAPTER 384

CITY FINANCE

384.4 Debt service fund. A city shall establish a debt service fund and shall certify taxes to be levied for the debt service fund in the amount necessary to pay:

1. Judgments against the city, except those authorized by state law to be paid from other funds.

2. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the city or to pay, or to create a sinking fund to pay, amounts as due on loans received through the Iowa community development loan program*.

Moneys pledged or available to service general obligation bonds, and received from sources other than property taxes, must be deposited in the debt service fund.

If a final judgment is entered against a city with a population of five hundred or less for an amount in excess of eighty-eight thousand dollars over and above what is covered by liability insurance, such city may spread the budgeting and payment of that portion not covered by insurance over a period of time not to exceed ten years. Interest shall be paid by the city on the unpaid balance. This paragraph shall only apply to final judgments entered but not fully satisfied prior to March 25, 1976.

(83 Acts, ch 207, § 52, 93) SF 548

Effective June 25, 1983

*Iowa community development loan program is in § 7A.41 to 7A.49

Subsection 2 amended

384.12 Additional taxes. A city may certify, for the general fund levy, taxes which are not subject to the limit provided in section 384.1, and which are in addition to any other moneys the city may wish to spend for such purposes, as follows:

1. A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for the support of a municipal band, subject to the following:

a. Upon receipt of a petition valid under the provisions of section 362.4, the council shall submit to the voters at the next regular city election the question of whether a tax shall be levied.

b. If a majority approves the levy, it may be imposed.

c. The levy can be eliminated by the same procedure of petition and election.

d. A tax authorized by an election held prior to the effective date of the city code may be continued until eliminated by the council, or by petition and election.

2. A tax not to exceed eighty-one cents per thousand dollars of assessed value for development, operation, and maintenance of a memorial building or monument, subject to the provisions of subsection 1.

3. A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for support of a symphony orchestra, subject to the provisions of subsection 1.

4. A tax not to exceed twenty-seven cents per thousand dollars of assessed value for the operation of cultural and scientific facilities, subject to the provisions of subsection 1, except that the question may be submitted on the council's own motion.

5. A tax to aid in the construction of a county bridge, subject to the provisions of subsection 1, except that the question must be submitted at a special election. The expense of a special election under this subsection must be paid by the county. The notice of the special election must include full details of the proposal, including the location of the proposed bridge, the rate of tax to be levied, and all other conditions.

6. A tax to aid a company incorporated under the laws of this state in the construction of a highway or combination bridge across any navigable boundary river of this state, commencing or terminating in the city and suitable for use as highway, or for both highway and railway purposes. This tax levy is subject to the provisions of subsections 1 and 5. The levy is limited to one dollar and thirty-five cents per thousand dollars of the assessed value of taxable property in the city. The estimated

cost of the bridge must be at least ten thousand dollars, and the city aid may not exceed one-half of the estimated cost. The notice of the special election must include the name of the corporation to be aided, and all conditions required of the corporation. Tax moneys received for this purpose may not be paid over by the county treasurer until the city has filed a statement that the corporation has complied with all conditions.

7. If a tax has been voted for aid of a bridge under subsection 6, a further tax may be voted for the purpose of purchasing the bridge, subject to the provisions of subsection 1. The levy under this subsection is limited to three dollars and thirty-seven and one-half cents per thousand dollars of the assessed value of the taxable property in the city, payable in not less than ten annual installments.

8. A tax for the purpose of carrying out the terms of a contract for the use of a bridge by a city situated on a river over which a bridge has been built. The tax may not exceed sixty-seven and one-half cents per thousand dollars of assessed value each year.

9. A tax for aid to a public transportation company, subject to the procedure provided in subsection 1, except the question must be submitted at a special election. The levy is limited to three and three-eighths cents per thousand dollars of assessed value. In addition to any other conditions the following requirements must be met before moneys received for this purpose may be paid over by the county treasurer:

a. The public transportation company shall provide the city with copies of state and federal income tax returns for the five years preceding the year for which payment is contemplated or for such lesser period of time as the company has been in operation.

b. The city shall, in any given year, be authorized to pay over only such sums as will yield not to exceed two percent of the public transportation company's investment as the same is valued in its tax depreciation schedule, provided that corporate profits and losses for the five preceding years or for such lesser period of time as the company has been in operation shall not average in excess of a two percent net return. Taxes levied under this subsection may not be used to subsidize losses incurred prior to the election required by this subsection.

10. A tax for the operation and maintenance of a municipal transit system, and for the creation of a reserve fund for the system, in an amount not to exceed fifty-four cents per thousand dollars of assessed value each year, when the revenues from the transit system are insufficient for such purposes, but proceeds of the tax may not be used to pay interest and principal on bonds issued for the purposes of the transit system.

11. If a city has entered into a lease of a building or complex of buildings to be operated as a civic center, a tax sufficient to pay the installments of rent and for maintenance, insurance and taxes not included in the lease rental payments.

12. A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value each year for operating and maintaining a civic center owned by a city.

13. A tax not to exceed six and three-fourths cents per thousand dollars of assessed value for planning a sanitary disposal project.

14. A tax not to exceed twenty-seven cents per thousand dollars of assessed value each year for an aviation authority as provided in section 330A.15.

15. If a city has joined with the county to form an authority for a joint county-city building, as provided in section 346.27, and has entered into a lease with the authority, a tax sufficient to pay the annual rent payable under the lease.

16. A tax not to exceed six and three-fourths cents per thousand dollars of assessed value each year for a levee improvement fund in special charter cities as provided in section 420.155.

17. A tax not to exceed twenty and one-half cents per thousand dollars of assessed value each year to maintain an institution received by gift or devise, subject to an election as required under subsection 1.

18. A tax to pay the premium costs on tort liability insurance as provided in section 613A.7.

19. A tax that exceeds any tax levy limit within this chapter, provided; the question has been submitted at a special levy election and received a simple majority of the votes cast on the proposition to authorize the enumerated levy limit to be exceeded for the proposed budget year.

a. The election may be held as specified herein if notice is given by the city council, not later than February 15, to the county commissioner of elections that the election is to be held.

b. An election under this subsection shall be held on the second Tuesday in March and be conducted by the county commissioner of elections in accordance with the law.

c. The proposition to be submitted shall be substantially in the following form:

Vote for *only one* of the following:

Shall the city of (name of city) levy a tax for the purpose of (state purpose of levy election) at a rate of (rate) which will provide \$..... (amount)

The city of shall continue under the maximum rate of providing \$..... (amount)

d. The commissioner of elections conducting the election shall notify the city officials and other county auditors where applicable, of the results within two days of the canvass which shall be held beginning at one o'clock on the second day following the special levy election.

e. Notice of the election shall be published twice in accordance with the provisions of section 362.3, except that the first such notice shall be given at least two weeks before the election.

f. The cost of the election shall be borne by the city.

g. The election provisions of this subsection shall supersede other provisions for elections only to the extent necessary to comply with the provisions hereof.

h. The provisions of this subsection apply to all cities, however organized, including special charter cities which may adopt ordinances where necessary to carry out these provisions.

i. The council shall certify the city's budget with the tax askings not exceeding the amount approved by the special levy election.

(83 Acts, ch 101, § 82) SF 136

Subsection 17 struck and following subsections renumbered

384.24 Definitions. As used in this division, unless the context otherwise requires:

1. "General obligation bond" means a negotiable bond issued by a city and payable from the levy of unlimited ad valorem taxes on all the taxable property within the city through its debt service fund which is required to be established by section 384.4.

2. "City enterprise" means any of the following, including the real estate, fixtures, equipment, accessories, appurtenances, and all property necessary or useful for the operation of any of the following:

a. Parking facilities systems, which may include parking lots and other off-street parking areas, parking ramps and structures on, above, or below the surface, parking meters, both on-street and off-street, and all other fixtures, equipment, accessories, appurtenances, and requisites useful for the successful operation of a parking facilities system.

b. Civic centers or civic center systems, which may include auditoriums, music halls, theatres, sports arenas, armories, exhibit halls, meeting rooms, convention halls, or combinations of these.

c. Recreational facilities or recreational facilities systems, including, without limitation, real and personal property, water, buildings, improvements, and equipment useful and suitable for administering recreation programs, and also including

without limitation, zoos, museums, and centers for art, drama, and music, as well as those programs more customarily identified with the term "recreation" such as public sports, games, pastimes, diversions, and amusement, on land or water, whether or not such facilities are located in or as a part of any public park.

d. Port facilities or port facilities systems, including without limitation, real and personal property, water, buildings, improvements and equipment useful and suitable for taking care of the needs of commerce and shipping, and also including without limitation, wharves, docks, basins, piers, quay walls, warehouses, tunnels, belt railway facilities, cranes, dock apparatus, and other machinery necessary for the convenient and economical accommodation and handling of watercraft of all kinds and of freight and passengers.

e. Airport and airport systems.

f. Solid waste collection systems and disposal systems.

g. Bridge and bridge systems.

h. Hospital and hospital systems.

i. Transit systems.

j. Stadiums.

k. Housing for the elderly or physically handicapped.

3. "Essential corporate purpose" means:

a. The opening, widening, extending, grading, and draining the right of way of streets, highways, avenues, alleys, public grounds, and market places, and the removal and replacement of dead or diseased trees thereon; the construction, reconstruction, and repairing of any street improvements; the acquisition, installation, and repair of traffic control devices; and the acquisition of real estate needed for any of the foregoing purposes.

b. The acquisition, construction, improvement, and installation of street lighting fixtures, connections, and facilities.

c. The construction, reconstruction, and repair of sidewalks and pedestrian underpasses and overpasses, and the acquisition of real estate needed for such purposes.

d. The acquisition, construction, reconstruction, extension, improvement, and equipping of works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner, for the collection and disposal of solid waste, and for the collection and disposal of surface waters and streams.

e. The acquisition, construction, reconstruction, enlargement, improvement, and repair of bridges, culverts, retaining walls, viaducts, underpasses, grade crossing separations, and approaches thereto.

f. The settlement, adjustment, renewing, or extension of any part or all of the legal indebtedness of a city, whether evidenced by bonds, warrants, or judgments, or the funding or refunding of the same, whether or not such indebtedness was created for a purpose for which general obligation bonds might have been issued in the original instance.

g. The undertaking of any project jointly or in co-operation with any other governmental body which, if undertaken by the city alone, would be for an essential corporate purpose, including the joint purchase, acquisition, construction, ownership, or control of any real or personal property.

h. The acquisition, construction, reconstruction, improvement, and extension of works and facilities useful for the control and elimination of any and all sources of air, water, and noise pollution, and the acquisition of real estate needed for such purposes.

i. The acquisition, construction, reconstruction, and improvement of all waterways, and real and personal property, useful for the protection or reclamation of property situated within the corporate limits of cities from floods or high waters, and for the protection of property in cities from the effects of flood waters, including the deepening, widening, alteration, change, diversion, or other improvement of water-

courses, within or without the city limits, the construction of levees, embankments, structures, impounding reservoirs, or conduits, and the establishment, improvement, and widening of streets, avenues, boulevards, and alleys across and adjacent to the project, as well as the development and beautification of the banks and other areas adjacent to flood control improvements.

j. The equipping of fire, police, sanitation, street, and civil defense departments.

k. The acquisition and improvement of real estate for cemeteries, and the construction, reconstruction, and repair of receiving vaults, mausoleums, and other cemetery facilities.

l. The acquisition of ambulances and ambulance equipment.

m. The reconstruction and improvement of dams already owned.

n. The reconstruction, extension, and improvement of an airport already owned.

o. The rehabilitation and improvement of parks already owned, including the removal, replacement and planting of trees in the parks, and facilities, equipment, and improvements commonly found in city parks.

p. The rehabilitation and improvement of area television translator systems already owned.

q. The aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of chapter 403, and all of the purposes set out in section 403.12. However, bonds issued for this purpose are subject to the right of petition for an election as provided in section 384.26, without limitation on the amount of the bond issue or the size of the city, and the council shall include notice of the right of petition in the notice required under section 384.25, subsection 2.

r. The acquisition, construction, reconstruction, improvement, repair, and equipping of waterworks, water mains, and extensions, and real and personal property, useful for providing potable water to residents of a city.

4. "General corporate purpose" means:

a. The acquisition, construction, reconstruction, extension, improvement, and equipping of city utilities, city enterprises, and public improvements as defined in section 384.37, other than those which are essential corporate purposes.

b. The acquisition, construction, reconstruction, enlargement, improvement, and equipping of community center houses, recreation grounds, recreation buildings, juvenile playgrounds, swimming pools, recreation centers, parks, and golf courses, and the acquisition of real estate therefor.

c. The acquisition, construction, reconstruction, enlargement, improvement, and equipping of city halls, jails, police stations, fire stations, garages, libraries, and hospitals, including buildings to be used for any combination of the foregoing purposes, and the acquisition of real estate therefor.

d. The acquisition, construction, reconstruction, and improvement of dams at the time of acquisition.

e. The removal, replacement, and planting of trees, other than those on public right of way.

f. The acquisition, purchase, construction, reconstruction, and improvement of greenhouses, conservatories, and horticultural centers for growing, storing, and displaying trees, shrubs, plants, and flowers.

g. The acquisition, construction, reconstruction, and improvement of airports at the time of establishment.

h. The undertaking of any project jointly or in co-operation with any other governmental body which, if undertaken by the city alone, would be for a general corporate purpose, including the joint purchase, acquisition, construction, ownership, or control of any real or personal property.

i. Any other facilities or improvements which are necessary for the operation of the city or the health and welfare of its citizens.

5. The "cost" of any project for an essential corporate purpose or general corporate purpose includes construction contracts and the cost of engineering, architectural,

technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights of way, supervision, inspection, testing, publications, printing and sale of bonds, and provisions for contingencies.

(83 Acts, ch 90, § 21) HF 377

Subsection 3, paragraph o amended

384.28 Categories for general obligation bonds. A city may issue general obligation bonds pursuant to a resolution adopted at a regular or special meeting by a majority of the total number of members to which the council is entitled. Each paragraph of section 384.24, subsections 3 and 4 describes a separate category. Separate categories of essential corporate purposes and of general corporate purposes may be incorporated in a single notice of intention to institute proceedings for the issuance of bonds, or separate categories may be incorporated in separate notices, and after an opportunity has been provided for filing objections, or after a favorable election has been held, if required, the council may include in a single resolution and sell as a single issue of bonds, any number or combination of essential corporate purposes or general corporate purposes. If an essential corporate purpose is combined with a general corporate purpose in a single notice of intention to institute proceedings to issue bonds, then the entire issue is subject to the referendum requirement provided in section 384.26.

Definitions of city enterprises, essential corporate purposes, and general corporate purposes are not mutually exclusive and shall be liberally construed. The detailing of examples is not intended to modify or restrict the meaning of general words used. If a project or activity may be reasonably construed to be included in more than one classification, the council may elect at any time between the classifications and the procedures respectively applicable to each classification.

(83 Acts, ch 90, § 22) HF 377

NEW unnumbered paragraph 2

384.37 Definitions. As used in this division, unless the context otherwise requires:

1. "Public improvement" includes the principal structures, works, component parts and accessories of any of the following:
 - a. Sanitary, storm and combined sewers.
 - b. Drainage conduits, channels and levees.
 - c. Street grading, paving, graveling, macadamizing, curbing, guttering, and surfacing with oil, oil and gravel or chloride.
 - d. Street lighting fixtures, connections and facilities.
 - e. Sewage pumping stations, and disposal and treatment plants.
 - f. Underground gas, water, heating, sewer and electrical connections located in streets for private property.
 - g. Sidewalks and pedestrian underpasses or overpasses.
 - h. Drives and driveway approaches located within the public right of way.
 - i. Waterworks, water mains and extensions.
 - j. Plazas, arcades and malls.
 - k. Parking facilities.
 - l. Removal of diseased or dead trees from any public place, publicly owned right of way or private property.
2. "Construction" includes materials, labor, acts, operations and services necessary to complete a public improvement.
3. "Repair" includes materials, labor, acts, operations and services necessary for the repair, reconstruction, reconstruction by widening or resurfacing of a public improvement.
4. "Street" means a public street, highway, boulevard, avenue, alley, parkway, public place, plaza, mall or publicly owned right of way or easement within the limits of the city.

5. "*Lot*" means a parcel of land under one ownership, including improvements, against which a separate assessment is made. Two or more contiguous parcels under common ownership may be treated as one lot for purposes of this division if the parcels bear common improvements or if the council finds that the parcels have been assembled into a single unit for the purpose of use or development.

6. "*Total cost*" or "*cost*" of a public improvement includes the cost of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, legal services, acquisition of land, consequential damages or costs, easements, rights of way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for not more than six months thereafter, and printing and sale of bonds.

7. "*Gravel*" includes gravel, crushed rock, cinders, shale and similar materials suitable for street construction or repair.

8. "*Oil*" means any asphaltic or bituminous material suitable for street construction or repair.

9. "*Sewer*" means structures designed, constructed and used for the purpose of controlling or carrying off streams, surface waters, waste or sanitary sewage.

10. "*Main sewer*" means a sewer which serves as an outlet for two or more lateral sewers, and which is commonly referred to as an intercepting sewer, outfall sewer or trunk sewer.

11. "*Lateral sewer*" means a sewer which contributes sewage, or surface or ground water from a local area to a main sewer or outlet.

12. "*Sewer systems*" are composed of the main sewers, sewage pumping stations, treatment and disposal plants, lateral sewers, drainage conduits or channels and sewer connections in public streets for private property.

13. "*District*" means the lots or parts of lots within boundaries established by the council for the purpose of the assessment of the cost of a public improvement.

14. "*Private property*" means all property within the district except streets.

15. "*Abutting lot*" means a lot which abuts or joins the street in which the public improvement is located or which abuts the right of way of the public improvement.

16. "*Adjacent lot*" means a lot within the district which does not abut upon the street or right of way of the public improvement.

17. "*Street improvement*" means the construction or repair of a street by grading, paving, curbing, guttering, and surfacing with oil, oil and gravel, or chloride, and street lighting fixtures, connections and facilities.

18. "*Proposal*" means a legal bid on work advertised for a public improvement under division VI of this chapter.

19. "*Paving*" means any kind of hard street surface, including, but not limited to, concrete, bituminous concrete, brick, stabilized gravel, or combinations of these, together with or without curb and gutter.

20. "*Engineer*" means a professional engineer, registered in the state of Iowa, authorized by the council to render services in connection with the public improvement.

21. "*Grade*" means the longitudinal reference lines, as established by ordinance of the council, which designate the elevations at which a street or sidewalk is to be built.

22. "*Final grade*" means the grade to which the public improvement is proposed to be constructed or repaired as shown on the final plans adopted by the council.

23. "*Railways*" means all railways except street railways.

24. "*Publication*" means public notice given in the manner provided in section 362.3.

25. "*Property owner*" or "*owner*" means the owner or owners of property, as shown by the transfer books in the office of the county auditor of the county in which the property is located.

26. "*Parking facilities*" means parking lots or other off-street areas for the parking of vehicles, including areas below or above the surface of streets.

(83 Acts, ch 90, § 23) HF 377

Subsection 5 amended

384.60 Adoption of schedule. Within ten days after filing of the assessment schedule, the council shall meet, consider, and adopt or amend and adopt, by resolution, the final assessment schedule. The resolution must:

1. Confirm and levy assessments, including a conditional levy of the amount of deficiencies which may be subsequently assessed against each lot under section 384.63.
2. State the number of annual installments, not exceeding fifteen, into which assessments of fifty dollars or more are divided.
3. Provide for interest on all unpaid installments at a rate not exceeding that permitted by chapter 74A.
4. State the time when assessments are payable.
5. Direct the clerk to certify the final schedule to the treasurer of the county or counties in which the assessed property is located, and to publish notice of the schedule once each week for two consecutive weeks in the manner provided in section 362.3, the first publication of which shall be not more than fifteen days from the date of filing of the final schedule.

On or before the second publication of the notice, the clerk shall send by certified mail to each property owner whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. The notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of the first notice of the final assessment schedule, and thereafter all unpaid special assessments bear interest at the rate specified by the council, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments as provided in section 384.65, subsection 3, and each installment will be delinquent on September 30 following its due date, and will draw additionally the same delinquent interest and the same penalties as ordinary taxes. The notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment.

The county treasurer shall place on the tax list the amounts to be assessed against each lot within the assessment district, as certified.

(83 Acts, ch 148, § 1) HF 622

Subsection 5 amended

384.63 Insufficiency — certification to county treasurer — deficiency assessment. If the special assessment which may be levied against a lot is insufficient to pay its proportion of the cost of the improvement, or if no special assessment may be levied against a lot, the deficiency shall be paid from the city fund or funds designated by the council.

The council shall, by resolution, provide that the deficiencies for the lots specially benefited by a public improvement shall be certified to the county treasurer, who shall record them in a separate book entitled "Special Assessment Deficiencies", and to the appropriate city official charged with the responsibility of issuing building permits, who shall notify the council when a private improvement is subsequently constructed on any lot subject to a deficiency. Certification to the county treasurer shall include a legal description of each lot. The period of amortization for a public improvement for which there are deficiencies shall commence with the adoption of the resolution of necessity and extend for the same period for which installments of assessments for the project are made payable. Deficiencies may be assessed only during the period of amortization, which shall also be certified to the county treasurer and the city official charged with the responsibility of issuing building permits. Certification to the county treasurer shall include a legal description of each lot. When a private improvement is constructed on a lot subject to a deficiency,

during the period of amortization, the council shall, by resolution, assess a pro rata portion of the deficiency on that lot, in the same proportion to the total deficiency on that lot as the number of future installments of special assessments remaining to be paid is to the total number of installments of assessments for the project, subject to the twenty-five percent limitation of section 384.62. A deficiency assessment becomes a lien on the property and is payable in the same manner, and subject to the same interest and penalties as the other special assessments. The council shall direct the clerk to certify a deficiency assessment to the county treasurer, and to send a notice of the deficiency assessment by certified mail to each owner, as provided in section 384.60, subsection 5, but publication of the notice is not required. An owner may appeal from the amount of the assessment within thirty days of the date notice is mailed. County officials shall collect a deficiency assessment, commencing in the year following the assessment, in the manner provided for the collection of other special assessments. Upon collection, the county treasurer shall make the appropriate credit entries in the "Special Assessment Deficiencies" book, and shall credit the amounts collected as provided for other special assessments on the same public improvement, or to the city, to the extent that the deficiency has been previously paid from other city funds.

(83 Acts, ch 90, § 24) HF 377

Unnumbered paragraph 2 amended

384.65 Installments due.

1. The first installment of each assessment, or the total amount if less than fifty dollars, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of acceptance of the work by the council to the first day of December following the due date.

2. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the September semiannual payment of ordinary taxes.

3. All future installments of an assessment may be paid on any date by payment of the then outstanding balance, plus interest to the next December 1.

4. Each installment of an assessment with interest on the unpaid balance is delinquent after the thirtieth day of September next after its due date, and bears the same delinquent interest with the same penalties as ordinary taxes. When collected, the interest and penalties must be credited to the same fund as the special assessment.

5. From the date of filing of a certified copy of the resolution of necessity, the plat, and the schedule of assessments as provided in section 384.51, all special assessments with all interest and penalties become and remain a lien on the benefited properties until paid, and have equal precedence with ordinary taxes, and are not divested by any judicial sale.

6. Any property owner may elect to pay one-half of any annual installment of principal and interest of a special assessment in advance, with the second semiannual payment of ordinary taxes collected in the year preceding the due date of such installment. The county treasurer shall accept such partial payment of the special assessment, and shall credit the next annual installment of such special assessment to the extent of such payment, and shall remit the payments to the city.

7. Each installment of an assessment shall be equal to the amount of the unpaid assessment as computed on the thirty-first day after the certification of the assessment divided by the number of annual installments into which the assessment may be divided as adopted by the council pursuant to section 384.60.

(83 Acts, ch 90, § 25) HF 377

Subsection 1 amended

(83 Acts, ch 148, § 2) HF 622

Subsection 3 amended

384.83 Revenue bonds.

1. A city may issue revenue bonds pursuant to a resolution of the governing body of the city utility, combined utility system, city enterprise, or combined city enterprise, adopted at a regular or special meeting by a majority of the total number of members to which the governing body is entitled.

2. a. Before the governing body institutes proceedings for the issuance of revenue bonds, it shall fix a time and place of meeting at which it proposes to take action and give notice by publication in the manner directed in section 362.3. The notice must include a statement of the time and place of the meeting, the maximum amount of the proposed revenue bonds, the purpose or purposes for which the revenue bonds will be issued, and the city utility, combined utility system, city enterprise, or combined city enterprise whose net revenues will be used to pay the revenue bonds and interest on them. The governing body shall at the meeting receive oral or written objections from any resident or property owner of the city. After all objections have been received and considered, the governing body may, at the meeting or any adjournment of the meeting, take additional action for the issuance of the bonds or abandon the proposal to issue bonds. Any resident or property owner of the city may appeal a decision of the governing body to take additional action to the district court of the county in which any part of the city is located within fifteen days after the additional action is taken, but the additional action of the governing body is final and conclusive unless the court finds that the governing body exceeded its authority. The provisions of this subsection with respect to notice, hearing, and appeal in connection with the issuance of revenue bonds are in lieu of those contained in chapter 23 or any other law.

b. Separate purposes may be incorporated in a single notice of intention to institute proceedings or separate purposes may be incorporated in separate notices and, after an opportunity for filing objections, the governing body may include in a single issue of revenue bonds any number or combination of purposes.

3. Revenue bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in either coupon or registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the governing body authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the governing body deems advisable, consistent with the provisions of the city code, including provisions for creating and maintaining reserve funds, the issuance of additional revenue bonds ranking on a parity with such revenue bonds and additional revenue bonds junior and subordinate to such revenue bonds, and that such revenue bonds shall rank on a parity with or be junior and subordinate to any revenue bonds which may be then outstanding. Revenue bonds are a contract between the city and holders and the resolution is a part of the contract.

4. If the governing body is a city council, the revenue bonds must be executed by the mayor and clerk of the city. If the governing body is a utility board, the revenue bonds must be executed by the chairman and secretary of the board. If coupons are attached to the revenue bonds, they must be executed with the original or facsimile signature of the clerk or secretary. A revenue bond is valid and binding for all purposes if it bears the signatures of the officers in office on the date of the execution of the bonds notwithstanding that any or all persons whose signatures appear thereon have ceased to be such officers prior to the delivery thereof. The issuance of revenue bonds must be recorded in the office of the city treasurer or other financial officer designated by the council, and a certificate of the recording by the treasurer or other officer must be printed on the back of each revenue bond.

5. Revenue bonds and pledge orders issued pursuant to this division are negotiable instruments.

6. A city may issue pledge orders pursuant to a resolution of the governing body of the city utility, combined utility system, city enterprise, or combined city enterprise, adopted by a majority of the total number of members to which the governing body is entitled, at a regular or special meeting, ordering their issuance and delivery in payment for all or part of the cost of a project. Pledge orders may bear interest at rates not exceeding that permitted by chapter 74A.

7. The physical properties of a city utility, combined utility system, city enterprise, or combined city enterprise may not be pledged or mortgaged to secure the payment of revenue bonds or pledge orders or the interest thereon.

(83 Acts, ch 90, § 26) HF 377

Subsection 2 amended and NEW paragraph b added

384.84 Rates for proprietary functions.

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, sewage treatment, solid waste collection, solid waste disposal, or any of these, if not paid as provided by ordinance of council, or resolution of trustees, are a lien upon the premises served by any of these services. The lien has equal precedence with ordinary taxes, may be certified to the county auditor and collected in the same manner as taxes, and is not divested by a judicial sale.

2. The governing body of a city utility, combined utility system, city enterprise or combined city enterprise may:

a. By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

b. Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

c. Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

d. Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

e. Contract for a period not to exceed forty years with persons and other governmental bodies for the purchase or sale of water, gas, or electric power and energy on a wholesale basis.

(83 Acts, ch 90, § 27) HF 377

Subsection 1 amended

CHAPTER 400

CIVIL SERVICE

400.6 Applicability — exceptions.

1. This chapter applies to all appointive officers and employees in cities under any form of government having a population of more than fifteen thousand except:

- a. City clerk, deputy city clerk, city solicitor, assistant solicitor, assessor, treasurer, auditor, civil engineer, health physician, chief of police, assistant chief of police in departments numbering more than two hundred fifty members, market master, city manager and administrative assistants to the manager.
- b. Laborers whose occupation requires no special skill or fitness.
- c. Election officials.
- d. Secretary to the mayor or to any commissioner.
- e. Commissioners of any kind.
- f. Casual employees.

2. In all other cities under any form of government, the provisions of this chapter shall apply only to members of the police and fire departments, except the following persons connected with such departments:

- a. Chiefs of police.
- b. Janitors, clerks, stenographers, secretaries.
- c. Casual employees.

(83 Acts, ch 186, § 10103, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 1, unnumbered paragraph 1 amended

400.11 Names certified — temporary appointment. The commission shall, within ninety days after the beginning of each competitive examination for original appointment or for promotion, certify to the city council a list of the names of the ten persons who qualify with the highest standing as a result of each examination for the position they seek to fill, or such number as may have qualified if less than ten, in the order of their standing, and all newly created offices or other vacancies in positions under civil service which shall occur before the beginning of the next examination for such positions shall be filled from said lists, or from the preferred list existing as provided for in case of diminution of employees, within thirty days. If a tie occurs in the examination scores which would qualify persons for the tenth position on the list, the list of the names of the persons who qualify with the highest standing as a result of each examination shall include all persons who qualify for the tenth position. Preference for temporary service in civil service positions shall be given those on such lists.

In cities of fifty thousand or more population, the commission shall hold in reserve a second list of the ten persons next highest in standing, in order of their grade, or such number as may qualify and, thereafter, if the list of ten persons provided in the first paragraph hereof be exhausted within one year, may certify such second list of persons to the council as eligible for appointment to fill such vacancies as may exist.

Except where the preferred list exists, persons on the certified eligible list for promotion shall hold preference for promotion for two years following the date of certification, except for certified eligible lists of fire fighters as defined in section 411.1, subsection 3, which lists shall hold preference for three years upon approval of the commission, after which the lists shall be canceled and promotion to the grade shall not be made until a new list has been certified eligible for promotion.

When there is no such preferred list or certified eligible list, or when the eligible list shall be exhausted, the person or body having the appointing power may temporarily fill a newly created office or other vacancy only until an examination can be held and the names of qualified persons be certified by the commission, and such temporary appointments are hereby limited to ninety days for any one person in the

same vacancy, but such limitation shall not apply to persons temporarily acting in positions regularly held by another. Any person temporarily filling a vacancy in a position of higher grade for twenty days or more, shall receive the salary paid in such higher grade.

(83 Acts, ch 62, § 1) SF 116

Unnumbered paragraph 3 amended

400.31 Waterworks employees. In cities where the board of waterworks trustees has adopted a resolution placing its employees under this chapter as to civil service, the civil service commission acting under this chapter has charge of the civil service procedure as to those employees and this chapter applies.

(83 Acts, ch 101, § 83) SF 136

Amended

CHAPTER 403

URBAN RENEWAL LAW

403.6 Powers of municipality. Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

1. To undertake and carry out urban renewal projects within its area of operation; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter; and to disseminate slum clearance and urban renewal information.

2. To arrange or contract for the furnishing or repair by any person of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions, that it may deem reasonable and appropriate, attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project; and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

3. Within its area of operation, to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise, any real property, or personal property for administrative purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this chapter: Provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict a municipality or other public body exercising powers hereunder in the exercise of such functions with respect to an urban renewal project, unless the legislature shall specifically so state.

4. To invest any urban renewal project funds held in reserves or sinking funds, or any such funds not required for immediate disbursement, in property or securities in which a state bank may legally invest funds subject to its control; to redeem such bonds as have been issued pursuant to section 403.9 at the redemption price established therein, or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

5. To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this chapter, and to give such security as may be required, and to enter into and carry out contracts in connection therewith. A municipality may include in any contract, for financial assistance with the federal government for an urban renewal project, such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of the chapter.

6. Within its area of operation, to make or have made all surveys and planning necessary to the carrying out of the purposes of this chapter, and to contract with any person in making and carrying out of such planning, and to adopt or approve, modify and amend such planning. Such planning may include, without limitation:

- a. A general plan for the locality as a whole;
- b. Urban renewal plans;
- c. Preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more urban renewal areas;
- d. Planning for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
- e. Planning for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- f. Appraisals, title searches, surveys, studies, and other planning and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and to apply for, accept and utilize grants of funds from the federal government for such purposes.

7. To plan for the relocation of persons, including families, business concerns and others, displaced by an urban renewal project, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government.

8. To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this chapter, and to levy taxes and assessments for such purposes; to zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements, respecting action to be taken by such municipality pursuant to any of the powers granted by this chapter, with an urban renewal agency vested with urban renewal project powers under section 403.14, which agreements may extend over any period, notwithstanding any provision of rule of law to the contrary.

9. To close, vacate, plan or replan streets, roads, sidewalks, ways or other places; and to plan or replan any part of the municipality.

10. Within its area of operation, to organize, co-ordinate and direct the administration of the provisions of this chapter as they apply to such municipality in order that the objective of remedying slum and blighted areas, and preventing the causes thereof, within such municipality, may be most effectively promoted and achieved; and to establish such new office or offices of the municipality, or to reorganize existing offices, in order to carry out such purpose most effectively.

11. To exercise all or any part of combination of powers herein granted.
12. To approve urban renewal plans.
13. To sell and convey real property in furtherance of an urban renewal project.
14. To supplement the rent required to be paid by any family residing in the municipality forced to relocate by reason of any governmental activity, provided it

is necessary to do so in order to house such family in decent, safe and sanitary housing and provided further that such family does not have sufficient means, as determined by the municipality, to pay the required rent for such housing. Any such rent supplement for any such family shall not continue for more than five years.

15. To acquire by purchase, gift or condemnation real property within its area of operation for the relocation of railroad passenger and freight depots, tracks, and yard and other railroad facilities and to sell or exchange and convey such real property to railroads.

16. To acquire or dispose of by purchase, construction, or lease, or otherwise to deal in air rights, and facilities or easements for lateral or vertical support of land or structures of any kind.

17. Subject to applicable state or federal regulations in effect at the time of the city action, accept contributions, grants, and other financial assistance from the state or federal government to be used upon a finding of public purpose for grants, loans, loan guarantees, interest supplements, technical assistance, or other assistance as necessary or appropriate to private persons for an urban renewal project.

(83 Acts, ch 48, § 2, 3) HF 533

Effective May 5, 1983

NEW subsection 17

CHAPTER 404

URBAN REVITALIZATION TAX EXEMPTIONS

404.2 Conditions mandatory. A city may only exercise the authority conferred upon it in this chapter after the following conditions have been met:

1. The governing body has adopted a resolution finding that the rehabilitation, conservation, redevelopment, or a combination thereof of the area is necessary in the interest of the public health, safety, or welfare of the residents of the city and the area meets the criteria of section 404.1.

2. The city has prepared a proposed plan for the designated revitalization area. The proposed plan shall include all of the following:

a. A legal description of the real estate forming the boundaries of the proposed area along with a map depicting the existing parcels of real estate.

b. The existing assessed valuation of the real estate in the proposed area, listing the land and building values separately.

c. A list of names and addresses of the owners of record of real estate within the area.

d. The existing zoning classifications and district boundaries and the existing and proposed land uses within the area.

e. Any proposals for improving or expanding city services within the area including but not limited to transportation facilities, sewage, garbage collection, street maintenance, park facilities and police and fire protection.

f. A statement specifying whether the revitalization is applicable to none, some, or all of the property assessed as residential, agricultural, commercial or industrial property within the designated area or a combination thereof and whether the revitalization is for rehabilitation and additions to existing buildings or new construction or both. If revitalization is made applicable only to some property within an assessment classification, the definition of that subset of eligible property must be by uniform criteria which further some planning objective identified in the plan. The city shall state how long it is estimated that the area shall remain a designated revitalization area which time shall be longer than one year from the date of designation and shall state any plan by the city to issue revenue bonds for revitalization projects within the area.

g. The provisions that have been made for the relocation of persons, including families, business concerns and others, whom the city anticipates will be displaced as a result of improvements to be made in the designated area.

h. Any tax exemption schedule that shall be used in lieu of the schedule set out in section 404.3, subsection 1, 2, 3 or 4. This schedule shall not allow a greater exemption, but may allow a smaller exemption, than allowed in the schedule specified in the corresponding subsection of section 404.3.

i. The percent increase in actual value requirements that shall be used in lieu of the fifteen and ten percent requirements specified in section 404.3, subsection 7 and in section 404.5. This percent increase in actual value requirements shall not be greater than that provided in this chapter and shall be the same requirements applicable to all existing revitalization areas.

j. A description of any federal, state or private grant or loan program likely to be a source of funding for that area for residential improvements and a description of any grant or loan program which the city has or will have as a source of funding for that area for residential improvements.

3. The city has filed a copy of the proposed plan for the designated revitalization area with the city development board by the fourteenth day before the scheduled public hearing.

4. The city has scheduled a public hearing and notified all owners of record of real property located within the proposed area, the tenants living within the proposed area and the city development board in accordance with section 362.3. In addition to notice by publication, notification shall also be given by ordinary mail to the last known address of the owners of record. The city shall also send notice by ordinary mail addressed to the "occupants" of city addresses located within the proposed area, unless the city council, by reason of lack of a reasonably current and complete address list, or for other good cause, shall have waived such notice. Notwithstanding the provisions of section 362.3, Code 1979, such notice shall be given by the thirtieth day prior to the public hearing.

5. The public hearing has been held.

6. A second public hearing has been held if:

a. The city development board requests, by certified mail, a second public hearing within thirty days after receipt of the minutes of the first public hearing or;

b. The city has received within thirty days after the holding of the first public hearing a valid petition requesting a second public hearing containing the signatures and current addresses of property owners that represent at least ten percent of the privately owned property within the designated revitalization area or;

c. The city has received within thirty days after the holding of the first public hearing a valid petition requesting a second public hearing containing the signatures and current addresses of tenants that represent at least ten percent of the residential units within the designated revitalization area.

At any such second public hearing the city may specifically request those in attendance to indicate the precise nature of desired changes in the proposed plan.

7. The city has adopted the proposed or amended plan, as the case may be, for the revitalization area after the requisite number of hearings. The city may subsequently amend this plan by following the procedures in this section.

(83 Acts, ch 173, § 1, 4, 5) HF 631

Effective June 10, 1983; subsection 2, paragraphs f and h apply to a revitalization area on that date if the plan is consistent with or is amended to be consistent with those paragraphs, and apply to areas designated revitalization areas on or after that date.

Subsection 2, paragraphs f and h amended

404.3 Basis of tax exemption.

1. All qualified real estate assessed as residential property is eligible to receive an exemption from taxation based on the actual value added by the improvements. The exemption is for a period of ten years. The amount of the exemption is equal to a percent of the actual value added by the improvements, determined as follows: One hundred fifteen percent of the value added by the improvements. However, the amount of the actual value added by the improvements which shall be used to compute the exemption shall not exceed twenty thousand dollars and the granting

of the exemption shall not result in the actual value of the qualified real estate being reduced below the actual value on which the homestead credit is computed under section 425.1.

2. All qualified real estate is eligible to receive a partial exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years. The amount of the partial exemption is equal to a percent of the actual value added by the improvements, determined as follows:

- a. For the first year, eighty percent.
- b. For the second year, seventy percent.
- c. For the third year, sixty percent.
- d. For the fourth year, fifty percent.
- e. For the fifth year, forty percent.
- f. For the sixth year, forty percent.
- g. For the seventh year, thirty percent.
- h. For the eighth year, thirty percent.
- i. For the ninth year, twenty percent.
- j. For the tenth year, twenty percent.

3. All qualified real estate is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of three years.

4. All qualified real estate assessed as residential property or assessed as commercial property, if the commercial property consists of three or more separate living quarters with at least seventy-five percent of the space used for residential purposes, is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years.

5. The owners of qualified real estate eligible for the exemption provided in this section shall elect to take the applicable exemption provided in subsection 1, 2, 3 or 4 or provided in the different schedule adopted in the city plan if a different schedule has been adopted. Once the election has been made and the exemption granted, the owner is not permitted to change the method of exemption.

6. The tax exemption schedule specified in subsection 1, 2, 3 or 4 shall apply to every revitalization area within a city unless a different schedule is adopted in the city plan as provided in section 404.2. However, a city shall not adopt a different schedule unless every revitalization area within the city has the same schedule applied to it and the schedule adopted does not provide for a larger tax exemption in a particular year than is provided for that year in the schedule specified in the corresponding subsection of this section.

7. "Qualified real estate" as used in this chapter and section 419.17 means real property, other than land, which is located in a designated revitalization area and to which improvements have been added, during the time the area was so designated, which have increased the actual value by at least the percent specified in the plan adopted by the city pursuant to section 404.2 or if no percent is specified then by at least fifteen percent, or at least ten percent in the case of real property assessed as residential property or which have, in the case of land upon which is located more than one building and not assessed as residential property, increased the actual value of the buildings to which the improvements have been made by at least fifteen percent. "Qualified real estate" also means land upon which no structure existed at the start of the new construction, which is located in a designated revitalization area and upon which new construction has been added during the time the area was so designated. "Improvements" as used in this chapter and section 419.17 includes rehabilitation and additions to existing structures as well as new construction on vacant land or on land with existing structures. However, new construction on land assessed as agricultural property shall not qualify as "improvements" for purposes of this chapter and section 419.17 unless the governing body of the city has presented justification at a public hearing held pursuant to section 404.2 for the revitalization

of land assessed as agricultural property by means of new construction. Such justification shall demonstrate, in addition to the other requirements of this chapter and section 419.17, that the improvements on land assessed as agricultural land will utilize the minimum amount of agricultural land necessary to accomplish the revitalization of the other classes of property within the urban revitalization area. However, if such construction, rehabilitation or additions were begun prior to January 29, 1979, or one year prior to the adoption by the city of a plan of urban revitalization pursuant to section 404.2, whichever occurs later, the value added by such construction, rehabilitation or additions shall not constitute an increase in value for purposes of qualifying for the exemptions listed in this section. "Actual value added by the improvements" as used in this chapter and section 419.17 means the actual value added as of the first year for which the exemption was received.

8. The fifteen and ten percent increase in actual value requirements specified in subsection 7 shall apply to every revitalization area within a city unless different percent increases in actual value requirements are adopted in the city plan as provided in section 404.2. However, a city shall not adopt different requirements unless every revitalization area within the city has the same requirements and the requirements do not provide for a greater percent increase than specified in subsection 7.

(83 Acts, ch 173, § 2, 3, 5) HF 631

Effective June 10, 1983; for applicability to residential property in revitalization areas on that date, see 83 Acts, ch 173, § 3

Subsection 4 amended

404.8 Productivity — additional tax not applicable. Repealed by 83 Acts, ch 101, § 129. (SF 136)

CHAPTER 411

RETIREMENT SYSTEMS FOR POLICEMEN AND FIREMEN

411.5 Administration.

1. *Boards.* The general administration and the responsibility for the proper operation of the retirement systems and for making effective the provisions of this chapter are hereby vested in a board of fire trustees to administer the system relating to firemen and a board of police trustees to administer the system relating to policemen. The said boards shall be constituted as follows:

a. The chief officer of the fire department, the city treasurer, two fire fighters elected by secret ballot by the members of the department who are entitled to participate in a fire retirement system established by law, and three citizens who do not hold another public office, who shall be appointed by the mayor with the approval of the city council, shall serve as the members of the board of trustees of the fire retirement system.

b. The chief officer of the police department, the city treasurer, two police officers elected by secret ballot by the members of the department who are entitled to participate in a police retirement system established by law, and three citizens who do not hold another public office, who shall be appointed by the mayor with the approval of the city council, shall serve as the members of the board of trustees of the police retirement system.

c. The three citizens appointed by the mayor shall serve on both of the boards.

d. Upon the taking effect of this chapter, such members of each said department in said cities shall elect by secret ballot two active members of each such department to serve as members of said respective boards; one of whom shall serve until the first Monday in April of the second year, and one until the first Monday in April of the fourth year. Thereafter each such department shall, every second year, on such date and in such manner as shall be prescribed by said board of trustees, elect by ballot one such member to serve for a term of four years.

e. Upon the taking effect of this chapter, the mayor, with the approval of the city council, shall appoint two citizens who do not hold any other public office, to serve as members of said boards of trustees; one of whom shall serve until the first Monday in April of the second year, and one until the first Monday in April of the fourth year. Thereafter, every second year, one such citizen shall be so appointed for a four-year term.

f. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

2. *Voting.* Each trustee shall be entitled to one vote on each board. Four concurring votes shall be necessary for a decision by the trustees at any meeting of either board.

3. *Compensation.* The trustees shall serve as such without compensation, but they shall be reimbursed from the expense fund for all necessary expenses which they may incur through service on the board.

4. *Rules.* Subject to the limitations of this chapter, each board of trustees shall, from time to time, establish rules and regulations for the administration of funds created by this chapter and for the transaction of its business.

5. *Employees.* Each board of trustees shall elect from its membership a chairman, and shall, by majority vote of its members, appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by each board of trustees and all other expenses of each board necessary for the operation of the retirement system, shall be paid at such rates and in such amounts as each board of trustees shall approve.

6. *Data.* Each board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system.

7. *Records — reports.* Each board of trustees shall keep a record of all its proceedings, which record shall be open to public inspection. It shall annually make a report to the city council showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

8. *Legal adviser.* The city attorney or solicitor of a city shall serve as the legal adviser of the board of trustees at the request of the board.

9. *Medical board.* The board of fire trustees and the board of police trustees jointly shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this chapter, except that for examinations required because of disability three physicians from the University of Iowa hospitals and clinics who shall pass upon the medical examinations required for disability retirements, and shall report in writing to each board of trustees, respectively, its conclusions and recommendations upon all matters duly referred to it.

10. *Duties of actuary.* The actuary shall be the technical adviser of the board of trustees on matters regarding the operation of the funds created by the provisions of this chapter and shall perform such other duties as are required in connection therewith.

11. *Tables — rates.* Immediately after the establishment of each retirement system, the actuary shall make such investigation of anticipated interest earnings and of the mortality, service and compensation experience of the members of the system as the actuary shall recommend and the board of trustees shall authorize, and on the basis of such investigation the actuary shall recommend for adoption by the board of trustees such tables and such rates as are required in subsection 12 of this section. The board of trustees shall adopt the rate of interest and tables, and certify rates of contribution to be used by the system.

12. *Actuarial investigation.* In the year 1938, and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and the interest and other earnings on the moneys and other assets of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the results of such investigation and valuation, the board of trustees shall:

a. Adopt for the retirement system such interest rate, mortality and other tables as shall be deemed necessary;

b. Certify the rates of contribution payable by the said cities in accordance with section 411.8 of this chapter.

13. *Valuation.* On the basis of such rate of interest and such tables as the boards of trustees shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement systems created by this chapter.

14. *Commissioner of insurance.* Within five days following its submission to the city council, each board of trustees shall transmit to the commissioner of insurance a copy of the report submitted to the city council and the amount of contributions deposited in the pension accumulation fund by the city. The commissioner of insurance shall review the report and the adequacy of the contribution of the city. The commissioner of insurance shall inform the city council of each city in which the contribution of a city is deemed to be inadequate.

(83 Acts, ch 101, § 84) SF 136

Subsection 1, paragraph c amended

CHAPTER 414

MUNICIPAL ZONING

414.22 Zoning for family homes.

1. It is the intent of this section to assist in improving the quality of life of developmentally disabled persons by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. *"Developmental disability"* or *"developmentally disabled"* means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

b. *"Family home"* means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

c. *"Permitted use"* means a use by right which is authorized in all residential zoning districts.

d. *"Residential"* means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, a new family home shall not be located within one-fourth of a mile from another family home. Section 135C.23, subsection 2 shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for developmentally disabled persons, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

(83 Acts, ch 11, § 2) HF 108

NEW section

CHAPTER 419

MUNICIPAL SUPPORT OF PROJECTS

(Chapter title changed)

419.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Municipality*" means any county, or any incorporated city in this state.

2. "*Project*" means all or any part of, or any interest in,

a. Land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under this chapter, which are suitable for the use of a voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of one or more physicians for an office building to be used exclusively by professional health care providers, including appropriate ancillary facilities, or of a private college or university, or a state institution governed under chapter 262 whether for the establishment or maintenance of the college or university, or of an industry or industries for the manufacturing, processing or assembling of agricultural or manufactured products, even though the processed products may require further treatment before delivery to the ultimate consumer, or of a commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and riverfront improvements useful and convenient for the handling and storage of goods and products, or of a facility for the generation of electrical energy through the use of a renewable energy source including but not limited to hydroelectric and wind generation facilities, or of a facility engaged in research and development activities, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a museum, library, or tourist information center, or of a telephone company, or of a beginning businessperson for any purpose, or of a commercial amusement or theme park, or of a housing unit or complex for the elderly or handicapped, or of a fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs, or

b. Pollution control facilities which are suitable for use by any industry, commercial enterprise or utility. "Pollution control facilities" means any land, buildings, structures, equipment, including portable equipment, pipes, pumps, dams, reservoirs, improvements, or other facilities useful for the purpose of reducing, preventing, or eliminating pollution of the water or air by reason of the operations of any industry, commercial enterprise or utility or for the disposal, including without limitation recycling, of solid waste. "Improve", "improving" and "improvements" include any real property, personal property or mixed property of any and every kind

that can be used or that will be useful in connection with a project, including but not limited to rights-of-way, roads, streets, sidings, trackage, foundations, tanks, structures, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities and other real, personal or mixed property of every kind, whether above or below ground level.

3. "*Governing body*" means the board, council or other body in which the legislative powers of the municipality are vested.

4. "*Mortgage*" shall include a deed of trust.

5. "*Equip*" means to install or place on or in any building or improvements or the site thereof equipment of any and every kind, including, without limiting the generality of the foregoing, machinery, utility service connections, building service equipment, fixtures, heating equipment, and air conditioning equipment and including, in the case of portable equipment used for pollution control, all such machinery and equipment which maintains a substantial connection with the building or improvement or the site thereof where installed, placed, or primarily based.

6. "*Lessee*" includes a single person, firm or corporation or any two or more persons, firms or corporations which shall lease the project as tenants-in-common or otherwise and which shall undertake rental payments and other monetary obligations under the lease of the project sufficient in the aggregate to satisfy the rental and other monetary obligations required by this chapter to be undertaken by the lessee of a project.

7. "*Lease*" includes a lease containing an option to purchase the project for a nominal sum upon payment in full, or provision therefor, of all bonds issued in connection with the project and all interest thereon and all other expenses incurred in connection with the project, and a lease containing an option to purchase the project at any time, as provided therein, upon payment of the purchase price which shall be sufficient to pay all bonds issued in connection with the project and all interest thereon and all other expenses incurred in connection with the project, but which payment may be made in the form of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the lessee providing for timely payments, including without limitation, interest thereon sufficient for such purposes and delivered to the municipality or to the trustee under the indenture pursuant to which the bonds were issued. A single lease may contain both of the foregoing options.

8. "*Sale contract*" means a contract providing for the sale of one or more projects to one or more contracting parties and includes a contract providing for payment of the purchase price in one or more installments. If the sale contract permits title to the project to pass to the other contracting party or parties prior to payment in full of the entire purchase price, it shall also provide for the other contracting party or parties to deliver to the municipality or to the trustee under the indenture pursuant to which the bonds were issued one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments, including without limitation, interest thereon for the balance of the purchase price at or prior to the passage of such title.

9. "*Loan agreement*" means an agreement providing for a municipality to loan the proceeds derived from the issuance of bonds pursuant to this chapter to one or more contracting parties to be used to pay the cost of one or more projects and providing for the repayment of such loan by the other contracting party or parties, and which may provide for such loans to be secured or evidenced by one or more notes, debentures, bonds or other secured or unsecured debt obligations of the contracting party or parties, delivered to the municipality or to the trustee under the indenture pursuant to which the bonds were issued.

10. "*Contracting party*" or "*other contracting party*" means any party to a sale contract or loan agreement except the municipality.

11. "*Revenues*" of a project, or derived from a project, include payments under

a lease or sale contract and repayments under a loan agreement, or under notes, debentures, bonds and other secured or unsecured debt obligations of a lessee or contracting party delivered as herein provided.

12. "Bonds" of a municipality includes bonds, notes or other securities.

13. "Corporation" includes a corporation whether organized for profit or not for profit for which the secretary of state has issued a certificate of incorporation or a permit for the transaction of business within the state and further includes a co-operative association.

14. "Beginning businessperson" means an individual with an aggregate net worth of the individual and the individual's spouse and children of less than one hundred thousand dollars. Net worth means total assets minus total liabilities as determined in accordance with generally accepted accounting principles.

(83 Acts, ch 182, § 1) SF 380

Subsection 2, paragraph a amended

(83 Acts, ch 47, § 1) SF 208

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 2, paragraph a amended

419.3 Bonds as limited obligations.

1. All bonds issued by a municipality, under the authority of this chapter, shall be limited obligations of the municipality. The principal of and interest on such bonds shall be payable solely out of the revenues derived from the project to be financed by the bonds so issued under the provisions of this chapter including debt obligations of the lessee or contracting party obtained from or in connection with the financing of a project. Bonds and interest coupons issued under authority of this chapter shall never constitute an indebtedness of the municipality, within the meaning of any state constitutional provision or statutory limitation, and shall not constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers. Such limitation shall be plainly stated on the face of each such bond.

2. The bonds referred to in subsection 1 of this section may be executed and delivered at any time and from time to time; be in such form and denominations; without limitation as to the denomination of any bond, any other law to the contrary notwithstanding; be of such tenor; be fully registered, registrable as to principal or in bearer form; be transferable; be payable in such installments and at such time or times, not exceeding thirty years from their date; be payable at such place or places in or out of the state of Iowa; bear interest at such rate or rates, payable at such place or places in or out of the state of Iowa; be evidenced in such manner and may contain other provisions not inconsistent with this chapter; all as shall be provided in the proceedings of the governing body where the bonds are authorized to be issued. The governing body may provide for the exchange of coupon bonds for fully registered bonds and of fully registered bonds for coupon bonds and for the exchange of any such bonds after issuance for bonds of larger or smaller denominations, all in the manner as may be provided in the proceedings authorizing their issuance, provided the bonds in changed form or denominations shall be exchanged for the surrendered bonds in the same aggregate principal amounts and in such manner that no overlapping interest is paid, and the bonds in changed form or denominations shall bear interest at the same rate or rates and shall mature on the same date or dates as the bonds for which they are exchanged. If an exchange is made under this section, the bonds surrendered by the holders at the time of the exchange shall be canceled or held by a trustee for subsequent exchanges in accordance with this section. The exchange shall be made only at the request of the holders of the bonds to be surrendered, and the governing body may require all expenses incurred in connection with the exchange to be paid by the holders. If any of the officers whose signatures appear on the bonds or coupons cease to be officers before the delivery of the bonds, such signatures are, nevertheless, valid and sufficient for all purposes, the same as if the officers had remained in office until delivery.

3. Unless otherwise provided in the proceedings of the governing body whereunder the bonds are authorized to be issued, bonds issued under the provisions of this chapter shall be subject to the general provisions of law, presently existing or that may hereafter be enacted, respecting the execution and delivery of the bonds of a municipality and respecting the retaining of options of redemption in proceedings authorizing the issuance of municipal securities.

4. Any bonds, issued under the authority of this chapter, may be sold at public sale in such manner, at such price and at such time or times as may be determined by the governing body to be most advantageous. The municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof.

5. All bonds, issued under the authority of this chapter and all interest coupons applicable thereto, shall be construed to be negotiable instruments, even though they are payable solely from a specified source.

(83 Acts, ch 90, § 28) HF 377

Subsection 2 amended

419.16 Intent of law. In order to provide available alternatives to enable municipalities to accomplish the purposes of this chapter in the manner deemed most advisable by their governing bodies, it is the intent of this chapter that a lessee or contracting party under a sale contract or loan agreement is not required to be the eventual user of a project, provided that the use of the project is consistent with the purposes of this chapter.

(83 Acts, ch 90, § 29) HF 377

Amended

CHAPTER 420

CITIES UNDER SPECIAL CHARTER

420.246 Tax and deed statutes applicable. Sections 445.47 to 445.51, 446.3 to 446.6, 446.16, 446.32, and 448.10 to 448.13 are applicable to cities acting under special charters, except that, where the word "treasurer" is used, there shall be substituted the words "city collector or treasurer or deputy treasurer or deputy officer authorized to collect city taxes"; and where the word "auditor" is used, there shall be substituted the words "city clerk or recorder".

(83 Acts, ch 101, § 85) SF 136

Amended

CHAPTER 421

DEPARTMENT OF REVENUE

Comprehensive study of state tax system; report due December 1,
1984; 83 Acts, ch 211 (SF 461)

421.17 Powers and duties. In addition to the powers and duties transferred to the director of revenue, the director shall have and assume the following powers and duties:

1. To have and exercise general supervision over the administration of the assessment and tax laws of the state, over boards of supervisors and all other officers or boards of assessment and levy in the performance of their official duties, in all matters relating to assessments and taxation, to the end that all assessments of property and taxes levied thereon be made relatively just and uniform in substantial compliance with the law.

2. To supervise the activity of all assessors and boards of review in the state of

Iowa; to co-operate with them in bringing about a uniform and legal assessment of property as prescribed by law.

The director may order the reassessment of all or part of the property in any taxing district in any year. Such reassessment shall be made by the local assessor according to law under the direction of the director and the cost thereof shall be paid in the same manner as the cost of making an original assessment.

The director shall determine the degree of uniformity of valuation as between the various taxing districts of the state and shall have the authority to employ competent personnel for the purpose of performing this duty.

For the purpose of bringing about uniformity and equalization of assessments throughout the state of Iowa, the director shall prescribe rules relating to the standards of value to be used by assessing authorities in the determination, assessment and equalization of actual value for assessment purposes of all property subject to taxation in the state, and such rules shall be adhered to and followed by all assessing authorities.

3. To prescribe and promulgate all forms of books and forms to be used in the listing and assessment of property, and on or before November 1 of each year shall furnish to the county auditor of each county such prescribed forms of assessment rolls and other forms to properly list and assess all property subject to taxation in each county. The department of revenue shall also from time to time prepare and furnish in like manner forms for any and all other blanks, memoranda or instructions which the director deems necessary or expedient for the use or guidance of any of the officers over which the director is authorized by law to exercise supervision.

4. To confer with, advise, and direct boards of supervisors, boards of review, and others obligated by law to make levies and assessments, as to their duties under the laws.

5. To direct proceedings, actions, and prosecutions to be instituted for the enforcement of the laws relating to the penalties, liabilities, and punishment of public officers, and officers or agents of corporations, and other persons or corporations, for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; to make or cause to be made complaints against members of boards of review, boards of supervisors or other assessing, reviewing, or taxing officers for official misconduct or neglect of duty. Provided, that employees of the department of revenue shall not during their regular hours of employment engage in the preparation of tax returns for individuals, except in connection with a regular audit thereof.

6. To require city, township, school districts, county, state, or other public officers to report information as to the assessment of property and collection of taxes and such other information as may be needful or desirable in the work of the department in such form and upon such blanks as the director may prescribe.

The director shall require all county recorders and city and county assessors to prepare a quarterly report in the manner and form to be prescribed by the director showing for each warranty deed or contract of sale of real estate, divided between rural and urban, during the last completed quarter the amount of revenue stamps, sale price or consideration, and the equalized value at which that property was assessed that year. This report with such further information as may be required by the director shall be submitted to the department within sixty days after the end of each quarter. The department shall prepare annual summaries of such records of the ratio of assessments to actual sales prices for all counties, and for cities having city assessors, and such information for the preceding year shall be available for public inspection by May 1.

7. To hold public hearings either at the seat of government or elsewhere in the state, and tax the costs thereof; to summon and compel witnesses to appear and give testimony, to administer oaths to said witnesses, and to compel said witnesses to produce for examination records, books, papers, and documents relating to any

matter which the director shall have the authority to investigate or determine. Provided, however, that no bank or trust company or its officers or employees shall be required to divulge knowledge concerning the property of any person when such knowledge was obtained through information imparted as a part of a business transaction with or for such person and in the usual and ordinary course of business of said bank or trust company, and was necessary and proper to the discharge of the duty of said bank or trust company in relation to such business transaction. This proviso shall be additional to other provisions of the law relating to confidential and privileged communications.

8. To cause the depositions of witnesses residing within or without the state, or absent therefrom, to be taken either on written or oral interrogatories, and the clerk of the district court of any county shall upon the order of the director issue a commission for the taking of such depositions. The proceedings therefor shall be the same as the proceedings for the taking of depositions in the district court so far as applicable.

9. To investigate the work and methods of boards of review, boards of supervisors, or other public officers, in the assessment, equalization, and taxation of all kinds of property, and for that purpose the director or employees of the department may visit the counties or localities when deemed necessary so to do.

10. To require any board of review at any time after its adjournment to reconvene and to make such orders as the director shall determine are just and necessary; to direct and order any board of review to raise or lower the valuation of the property, real or personal, in any township, city, or taxing district, to order and direct any board of review to raise or lower the valuation of any class or classes of property in any township, city, or taxing district, and generally to make any order or direction to any board of review as to the valuation of any property, or any class of property, in any township, city, county, or taxing district, which in the judgment of the director may seem just and necessary, to the end that all property shall be valued and assessed in the manner and according to the real intent of the law. For the purpose of this paragraph the words "taxing district" include drainage districts and levee districts.

The director may correct errors or obvious injustices in the assessment of any individual property, but the director shall not reduce the valuation of any individual property except upon the recommendation of the local board of review and no order of the director affecting any valuation shall be retroactive as to any reduction or increase in taxes payable prior to January 1 of the year in which such order is issued, or prior to September 1 of the preceding year in cities under special charter which collect their own municipal levies. Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act.

The director may order made effective reassessments or revaluations in any taxing district for any taxing year or years and the director may in any year order uniform increases or decreases in valuation of all property or upon any class of property within any taxing district or any area within such taxing district, such orders to be effective in the year specified by the director. For the purpose of this paragraph the words "taxing district" include drainage districts and levee districts.

11. To carefully examine into all cases where evasion or violation of the law for assessment and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered, and cause to be instituted such proceedings as will remedy improper or negligent administration of the laws relating to the assessment or taxation of property.

12. To make a summary of the tax situation in the state, setting out the amount of moneys raised by both direct and indirect taxation; and also to formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation. To recommend such additions to and changes in the present system of taxation that in the director's judgment are for the best interest of the state and will eliminate the necessity of any levy for state purposes.

13. To transmit biennially to the governor and to each member and member-elect of the legislature, thirty days before the meeting of the legislature, the report of the director, covering the subject of assessment and taxation, the result of the investigation of the director, recommendations for improvement in the system of taxation in the state, together with such measures as may be formulated for the consideration of the legislature.

14. To publish in pamphlet form the revenue laws of the state and distribute them to the county auditors, assessors, and boards of review.

15. To procure in such manner as the director may determine any information pertaining to the discovery of property which is subject to taxation in this state, and which may be obtained from the records of another state, and may furnish to the board or proper officers of another state, any information pertaining to the discovery of property which is subject to taxation in such state as disclosed by the records in this state.

16. To call upon any state department or institution for technical advice and data which may be of value in connection with the work of assessment and taxation.

17. To certify to the state comptroller on January 1 of each year the aggregate of each state tax for each county for said year.

18. To prepare and issue a state appraisal manual which each county and city assessor shall use in assessing and valuing all classes of property in the state. The appraisal manual shall be continuously revised and the manual and revisions shall be issued to the county and city assessors in such form and manner as prescribed by the director.

19. To issue rules as are necessary, subject to the provisions of chapter 17A, to provide for the uniform application of the exemptions provided in section 427.1 in all assessor jurisdictions in the state.

20. To subpoena from property owners and taxpayers any and all records and documents necessary to assist the department in the determination of the fair market value of industrial real estate. The burden of showing reasonable cause to believe that the documents or records sought by the subpoena are necessary to assist the department under this subsection shall be upon the director.

The provisions of sections 17A.10 to 17A.18 relating to contested cases shall not apply to any matters involving the equalization of valuations of classes of property as authorized by this chapter and chapter 441. This exemption shall not apply to a hearing before the state board of tax review.

21. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of human services, which the child support recovery unit is attempting to collect on behalf of an individual not eligible as a public assistance recipient, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services, which has accrued through written contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child or which is owed to the state for public assistance overpayments which the office of investigations of the department of human services is attempting to collect on behalf of the state. For purposes of this subsection, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the child support recovery unit established pursuant to section 252B.2, the foster care recovery unit, and the office of investigations shall obtain and forward to the department of revenue the full name and social security number of the debtor. The department of revenue shall co-operate in the exchange of relevant

information with the child support recovery unit as provided in section 252B.9, with the foster care recovery unit, and with the office of investigations. However, only relevant information required by the child support unit, by the foster care recovery unit, or by the office of investigations shall be provided by the department of revenue. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The child support recovery unit, the foster care recovery unit, and the office of investigations shall, at least annually, submit to the department of revenue for setoff the debts described in this subsection, which are at least fifty dollars, on a date to be specified by the department of human services by rule.

d. Upon submission of a claim the department of revenue shall notify the child support recovery unit, the foster care recovery unit, or the office of investigations as to whether the debtor is entitled to a refund or rebate and if so entitled shall notify the unit or office of the amount of the refund or rebate and of the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the child support recovery unit, the foster care recovery unit, or the office of investigations shall send written notification to the debtor, and a copy of the notice to the department of revenue, of the unit's or office's assertion of its rights or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application filed with the department within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the child support recovery unit, the foster care recovery unit, or the office of investigations shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer and subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the request of a debtor or a debtor's spouse to the child support recovery unit, the foster care recovery unit, or the office of investigations, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the unit or office shall notify the department of revenue of the request to divide a joint income tax refund or rebate. The department of revenue shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue shall, after notice has been sent to the debtor by the child support recovery unit, the foster care recovery unit, or the office of investigations, set off the debt against the debtor's income tax refund or rebate. However, if a debtor has made all current child support or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue not to set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the office of investigations shall notify the department of revenue not to set off the debt against the debtor's income tax refund or rebate. The department shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue shall periodically transfer the amount set off to the child support recovery unit, the foster

care recovery unit, or the office of investigations. If the debtor gives timely written notice of intent to contest the claim the department of revenue shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support recovery unit, the foster care recovery unit, or the office of investigations shall notify the debtor in writing upon completion of setoff.

22. To employ collection agencies, within or without the state, to collect delinquent taxes, including penalties and interest, administered by the department where the director finds that departmental personnel are unable to collect the delinquent accounts because of a taxpayer's location outside the state or for any other reason. Fees for services, reimbursement, or other remuneration, including attorney fees, paid to collection agencies shall be based upon the amount of tax, penalty, and interest actually collected and shall be paid only after the amount of tax, penalty, and interest is collected. All funds collected must be remitted in full to the department within thirty days from the date of collection from a taxpayer or in a lesser time as the director prescribes. The funds shall be applied toward the taxpayer's account and handled as are funds received by other means. An amount is appropriated from the amount of tax, penalty, and interest actually collected by the collection agency sufficient to pay all fees for services, reimbursement, or other remuneration pursuant to a contract with a collection agency under this subsection. A collection agency entering into a contract with the department for the collection of delinquent taxes pursuant to this subsection is subject to the requirements and penalties of tax information confidentiality laws of this state. All contracts and fees provided for in this subsection are subject to the approval of the governor.

23. To establish and maintain a procedure to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan under chapter 261. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue shall be satisfied except that a refund or rebate shall not be credited against tax liabilities which are not yet due.

b. Before setoff the college aid commission shall obtain and forward to the department of revenue the full name and social security number of the defaulter. The department of revenue shall cooperate in the exchange of relevant information with the college aid commission.

c. The college aid commission shall, at least annually, submit to the department of revenue for setoff the guaranteed student loan defaults, which are at least fifty dollars, on a date or dates to be specified by the college aid commission by rule.

d. Upon submission of a claim, the department of revenue shall notify the college aid commission whether the defaulter is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the commission of the amount of the refund or rebate and of the defaulter's address on the income tax return. Section 422.72, subsection 1, does not apply to this paragraph.

e. Upon notice of entitlement to a refund or rebate, the college aid commission shall send written notification to the defaulter, and a copy of the notice to the department of revenue, of the commission's assertion of its rights to all or a portion of the defaulter's refund or rebate and the entitlement to recover the amount of the default through the setoff procedure, the basis of the assertion, the defaulter's opportunity to request that a joint income tax refund or rebate be divided between spouses, the defaulter's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing before a specified date will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application, the commission shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the timely request of a defaulter or a defaulter's spouse to the college aid commission and upon receipt of the full name and social security number of the defaulter's spouse, the commission shall notify the department of revenue of the request to divide a joint income tax refund or rebate. The department of revenue shall upon receipt of the notice divide a joint income tax refund or rebate between the defaulter and the defaulter's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue shall, after notice has been sent to the defaulter by the college aid commission, set off the amount of the default against the defaulter's income tax refund or rebate if both the amount of the default and the refund or rebate are at least fifty dollars. The department shall refund any balance of the income tax refund or rebate to the defaulter. The department of revenue shall periodically transfer the amount set off to the college aid commission. If the defaulter gives written notice of intent to contest the claim, the commission shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The commission shall notify the defaulter in writing upon completion of setoff.

24. To enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation, that is substantially equivalent to the setoff procedure in subsection 23. A reciprocal agreement shall also be approved by the college aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

25. To provide that in the case of multiple claims to refunds or rebates filed under subsections 21 and 23, that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, and last priority shall be given to claims filed by the office of investigations under subsection 21.

(83 Acts, ch 96, § 157, 159, 160) SF 464

Subsection 21, unnumbered paragraph 1, and paragraphs c and g amended

(83 Acts, ch 153, § 20, 21) SF 541

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 21 amended

Subsection 25 struck and rewritten

CHAPTER 422

INCOME, CORPORATION, SALES AND BANK TAX

422.4 Definitions controlling division. For the purpose of this division and unless otherwise required by the context:

1. The words "*taxable income*" mean the net income as defined in section 422.7 minus the deductions allowed by section 422.9, in the case of individuals; in the case of estates or trusts, the words "*taxable income*" mean the taxable income (without a deduction for personal exemption) as computed for federal income tax purposes under the Internal Revenue Code of 1954, but with the adjustments specified in section 422.7 plus the Iowa income tax deducted in computing said taxable income and minus federal income taxes as provided in section 422.9.

2. The word "*person*" includes individuals and fiduciaries.

3. The words "*income year*" mean the calendar year or the fiscal year upon the basis of which the net income is computed under this division.

4. The words "*tax year*" mean the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this division.

a. If a taxpayer has made the election provided by section 441, subsection "f", of the Internal Revenue Code of 1954, "tax year" means the annual period so elected, varying from fifty-two to fifty-three weeks.

b. If the effective date or the applicability of a provision of this division is expressed in terms of a tax year beginning, including or ending with reference to a specified date which is the first or last day of a month, a tax year described in paragraph "a" of this subsection shall be treated as beginning with the first day of the calendar month beginning nearest to the first day of the tax year or as ending with the last day of the calendar month ending nearest to the last day of the tax year.

c. This subsection is effective for tax years ending on or after December 14, 1975.

5. The words "fiscal year" mean an accounting period of twelve months, ending on the last day of any month other than December.

6. The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

7. The word "paid", for the purposes of the deductions under this division, means "paid or accrued" or "paid or incurred", and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this division. The term "received", for the purpose of the computation of net income under this division, means "received or accrued", and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this division.

8. The word "resident" applies only to individuals and includes, for the purpose of determining liability to the tax imposed by this division upon or with reference to the income of any tax year, any individual domiciled in the state, and any other individual who maintains a permanent place of abode within the state.

9. The words "foreign country" mean any jurisdiction other than one embraced within the United States. The words "United States", when used in a geographical sense, include the states, the District of Columbia, and the possessions of the United States.

10. The word "individual" means a natural person; and where an individual is permitted to file as a corporation, under the provisions of the Internal Revenue Code of 1954, such fictional status shall not be recognized for purposes of this chapter, and such individual's taxable income shall be computed as required under the provisions of the Internal Revenue Code of 1954 relating to individuals not filing as a corporation, with the adjustments allowed by this chapter.

11. The term "head of household" shall have the same meaning as provided by the Internal Revenue Code of 1954.

12. The word "nonresident" applies only to individuals, and includes all individuals who are not "residents" within the meaning of subsection 8 hereof.

13. The term "withholding agent" means any individual, fiduciary, estate, trust, corporation, partnership or association in whatever capacity acting and including all officers and employees of the state of Iowa, or any municipal corporation of the state of Iowa and of any school district or school board of the state, or of any political subdivision of the state of Iowa, or any tax-supported unit of government that is obligated to pay or has control of paying or does pay to any resident or nonresident of the state of Iowa or his agent any wages that are subject to the Iowa income tax in the hands of such resident or nonresident, or any of the above-designated entities making payment or having control of making such payment of any taxable Iowa income to any nonresident. The term "withholding agent" shall also include an officer or employee of a corporation or association, or a member or employee of a partnership, who as such officer, employee, or member has the responsibility to perform an act under section 422.16 and who subsequently knowingly violates the provisions of section 422.16.

14. The term "wages" shall have the same meaning as provided by the Internal Revenue Code of 1954.

15. The term "employer" shall mean and include those who have a right to exercise control as to how, when, and where services are to be performed.

16. The term "other person" shall mean that person or entity properly empowered to act in behalf of an individual payee and shall include authorized agents of such payees whether they be individuals or married couples.

17. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 14, 1983.

18. a. "Annual inflation factor" means an index, expressed as a percentage, determined by the department each year to reflect the purchasing power of the dollar as a result of inflation during the preceding calendar year. For the 1981 and subsequent calendar years, "annual inflation factor" means an index, expressed as a percentage, determined by the department by October 15 of the calendar year preceding the calendar year for which the factor is determined to reflect the purchasing power of the dollar as a result of inflation during the fiscal year ending in the calendar year preceding the calendar year for which the factor is determined. In determining the annual inflation factor, the department shall use the annual percent change, but not less than zero percent, in the implicit price deflator for the gross national product computed for the whole calendar year or for the second quarter of the calendar year, in the case of the annual inflation factor for the 1981 and subsequent calendar years, by the bureau of economic analysis of the United States department of commerce and shall add two-fourths for the 1980 and subsequent calendar years of that percent change to one hundred percent. The annual inflation factor for the 1979 calendar year is one hundred two point three percent. The annual inflation factor and the cumulative inflation factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual inflation factor shall not be less than one hundred percent.

b. "Cumulative inflation factor" means the product of the annual inflation factor for the 1978 calendar year and all annual inflation factors for subsequent calendar years as determined pursuant to this subsection. The cumulative inflation factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual inflation factor has been determined.

c. The annual inflation factor for the 1978 calendar year is one hundred percent.

d. Notwithstanding the computation of the annual inflation factor under paragraph "a" of this subsection, the annual inflation factor is one hundred percent for any calendar year in which the unobligated state general fund balance on June 30 as certified by the state comptroller by September 10 of the fiscal year beginning in that calendar year is less than sixty million dollars. However, for the 1981 and subsequent calendar years, the annual inflation factor is one hundred percent for any calendar year if the unobligated state general fund balance on June 30 of the calendar year preceding the calendar year for which the factor is determined, as certified by the state comptroller by October 10, is less than sixty million dollars.

19. For purposes of section 422.4, subsection 17, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

(83 Acts, ch 179, § 1, 2, 21, 23) SF 386

Amendment to subsection 17 retroactive to January 1, 1982, for tax years beginning on or after that date, and applicable for tax years beginning prior to that date where the IRC as amended through January 14, 1983, provides for certain inclusions or exclusions in computing federal taxable income for a tax year beginning prior to that date

New subsection 19 retroactive to tax years ending after December 31, 1982, but only with respect to commodities received for the 1983 crop year

Subsection 17 amended

NEW subsection 19

422.5 Tax imposed — applicable to federal employees. A tax is imposed upon every resident and nonresident of the state which tax shall be levied, collected, and paid annually upon and with respect to the entire taxable income as defined in this division at rates as follows:

1. On the first one thousand dollars of taxable income, or any part thereof, one-half of one percent.

2. On the second thousand dollars of taxable income, or any part thereof, one and one-fourth percent.

3. On the third thousand dollars of taxable income, or any part thereof, two and three-fourths percent.

4. On the fourth thousand dollars of taxable income, or any part thereof, three and one-half percent.

5. On the fifth, sixth, and seventh thousand dollars of taxable income, or any part thereof, five percent.

6. On the eighth and ninth thousand dollars of taxable income, or any part thereof, six percent.

7. On the tenth through the fifteenth thousand dollars of taxable income or any part thereof, seven percent.

8. On the sixteenth through the twentieth thousand dollars of taxable income or any part thereof, eight percent.

9. On the twenty-first through the twenty-fifth thousand dollars of taxable income or any part thereof, nine percent.

10. On the twenty-sixth through the thirtieth thousand dollars of taxable income or any part thereof, ten percent.

11. On the thirty-first through the fortieth thousand dollars of taxable income or any part thereof, eleven percent.

12. On the forty-first through the seventy-fifth thousand dollars of taxable income or any part thereof, twelve percent.

13. On all taxable income over seventy-five thousand dollars, thirteen percent.

14. The tax imposed upon the taxable income of a nonresident shall be computed by reducing the amount determined pursuant to subsections 1 to 13 by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the nonresident's net income allocated to Iowa, as determined in section 422.8, subsection 2, is the numerator and the nonresident's total net income computed under section 422.7 is the denominator. This provision also applies to individuals who are residents of Iowa for less than the entire tax year.

However, no tax shall be imposed on any resident or nonresident whose net income, as defined in section 422.7, is five thousand dollars or less; but in the event that the payment of tax under this division would reduce the net income to less than five thousand dollars, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of five thousand dollars. The preceding sentence does not apply to estates or trusts. For the purpose of this paragraph, the entire net income, including any part thereof not allocated to Iowa, shall be taken into account. If the combined net income of a husband and wife exceeds five thousand dollars, neither of them shall receive the benefit of this paragraph, and it is immaterial whether they file a joint return or separate returns. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this paragraph if the person claiming the dependent has net income exceeding five thousand dollars or the person claiming the dependent and the person's spouse have combined net income exceeding five thousand dollars.

A resident of Iowa who is on active duty in the armed forces of the United States, as defined in Title 10, United States Code, section 101, for more than six continuous months, shall not include any income received for such service performed on or after January 1, 1969, or prior to January 1, 1977, in computing the tax imposed by this section.

The tax herein levied shall be computed and collected as hereinafter provided. The provisions of this division shall apply to all salaries received by federal officials or employees of the United States government as provided for herein.

A person who is disabled, is sixty-two years of age or older or is the surviving spouse of an individual or survivor having an insurable interest in an individual who would have qualified for the exemption under this paragraph for this tax year and receives one or more annuities from the United States civil service retirement and disability trust fund, and whose net income, as defined in section 422.7, is sufficient to require that the tax be imposed upon it under this section, may determine final taxable income for purposes of imposition of the tax by excluding the amount of annuities received from the United States civil service retirement and disability trust fund, which are not already excluded in determining net income, as defined in section 422.7, up to a maximum each tax year of five thousand five hundred dollars for a person who files a separate state income tax return and eight thousand dollars total for a husband and wife who file a joint state income tax return. However, a surviving spouse who is not disabled or sixty-two years of age or older can only exclude the amount of annuities received as a result of the death of his or her spouse. The amount of the exemption shall be reduced by the amount of any social security benefits received. For the purpose of this section, the amount of annuities received from the United States civil service retirement and disability trust fund taxable under the Internal Revenue Code of 1954 shall be included in net income for purposes of determining eligibility under the five thousand dollar or less exclusion.

Upon determination of the latest cumulative inflation factor, the director of revenue shall multiply each dollar amount set forth in subsections 1 to 13 of this section, and each dollar amount specified in this section as the maximum amount of annuities received which may be excluded in determining final taxable income, by this cumulative inflation factor, shall round off the resulting product to the nearest one dollar, and shall incorporate the result into the income tax forms and instructions for each tax year.

Income of an individual which is excluded from gross income under the Internal Revenue Code of 1954 as a result of the provisions of the Hostage Relief Act of 1980, 94 stat. 1967, shall not be included as income in computing the tax imposed by this section.

In addition to the other taxes imposed by this section, a tax is imposed on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code of 1954 to be separately taxed for federal income tax purposes for the tax year. The rate of tax is equal to twenty-five percent of the separate federal tax imposed on the amount of the lump sum distribution. A nonresident is liable for this tax only on that portion of the lump sum distribution allocable to Iowa. The total amount of the lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining eligibility under the five thousand dollar or less exclusion.

In addition to all taxes imposed under this division, there is imposed upon every resident and nonresident, including resident and nonresident estates and trusts, of this state a state minimum tax for tax preference items equal to seventy percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is one hundred percent in the case of a resident and in the case of a nonresident a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preference items attributable to Iowa which shall be based as much as equitably possible on the allocation provisions of section 422.8, subsections 2 and 3. For purposes of this paragraph, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 to 58 of the Internal Revenue Code of 1954 for the tax year.

(83 Acts, ch 101, § 86) SF 136

Unnumbered paragraph 7 amended

(83 Acts, ch 179, § 3, 20, 22) SF 386

Retroactive to January 1, 1983 for tax years beginning on or after January 1, 1983 for tax years beginning on or after that date

Study of state minimum tax in 1983; see 83 Acts, ch 179, § 20 (SF 386)

Unnumbered paragraph 10 amended

422.6 Income from estates or trusts. The tax imposed by section 422.5 and credit for increasing research activities granted under section 422.10 shall apply to and become a charge against estates and trusts with respect to their taxable income, and the rates shall be the same as those applicable to individuals. The fiduciary shall be responsible for making the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries thereon.

The beneficiary of a trust who receives an accumulation distribution shall be allowed credit without interest for the Iowa income taxes paid by the trust attributable to such accumulation distribution in a manner corresponding to the provisions for credit under the federal income tax relating to accumulation distributions as contained in the Internal Revenue Code of 1954. The trust shall not be entitled to a refund of taxes paid on the distributions. The trust shall maintain detailed records to verify the computation of the tax.

(83 Acts, ch 179, § 4, 25) SF 386

Effective January 1, 1985 for tax years beginning on or after that date

Unnumbered paragraph 1 amended

422.7 "Net income" — how computed. The term "net income" means the adjusted gross income as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

1. Subtract interest and dividends from federal securities.
2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code of 1954.
3. Where the adjusted gross income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1934, an adjustment may be made, under rules prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.
4. Subtract installment payments received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan when the commuted value of said installments has been included as a part of the decedent employee's estate for Iowa inheritance tax purposes.
5. Add the amount by which the basis of qualified depreciable property is required to be increased for depreciation purposes under the Internal Revenue Code Amendments Act of 1964 to the extent that such amount equals the net amount of the special deduction allowed on the basis of the amount by which the depreciable basis of such qualified property was required to be reduced for depreciation purposes under the Internal Revenue Code Amendments Act of 1962. The "net amount of the special deduction" shall be computed by taking the sum of the amounts by which the basis of qualified property was required to be decreased for depreciation purposes for the years 1962 and 1963 and subtracting from it the sum of the amounts by which the basis of such property was required to be increased, prior to 1964, for depreciation or disposition purposes under the Internal Revenue Code Amendments Act of 1962.
6. Individual taxpayers and married taxpayers who file a joint federal income tax return and who elect to file a joint return, separate returns or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the sick-pay exclusion and shall compute the amount of sick-pay exclusion subject to the limitations for joint federal income tax return filers provided by section 105(d) of the Internal Revenue Code of 1954.
7. Add to the taxable income of trusts, that portion of trust income excluded from federal taxable income under section 641(c) of the Internal Revenue Code of 1954.

8. Married taxpayers who file a joint federal income tax return and who elect to file separate returns or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the expensing of business assets and capital loss provisions of sections 179(a) and 1211(b) respectively of the Internal Revenue Code of 1954 and shall compute the amount of expensing of business assets and capital loss subject to the limitations for joint federal income tax return filers provided by sections 179(b) and 1211(b) respectively of the Internal Revenue Code of 1954.

9. Subtract the amount of the work incentive programs credit allowable for the taxable year under section 40 or the jobs tax credit allowable for the tax year under section 44B of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

10. Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or separate filing on a combined return for state income tax purposes, shall include in net income any unemployment compensation benefits received subject to the limitations for joint federal income tax return filers provided in section 85 of the Internal Revenue Code of 1954.

11. Subtract the amount of the alcohol fuel credit allowable for the tax year under section 44E of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

12. Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or separate filing on a combined return for state income tax purposes, may avail themselves of the dividend exclusion provisions of section 116(a) of the Internal Revenue Code of 1954 and shall compute the dividend exclusion subject to the limitations for joint federal income tax return filers provided by section 116(a) of the Internal Revenue Code of 1954.

13. The exclusion of interest income provided by section 128 of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for tax years beginning on or after January 1, 1981 and before January 1, 1984.

14. The deduction for a married couple where both persons are wage earners which is provided by section 221 of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for tax years beginning on or after January 1, 1982.

15. The deduction allowed under section 162(h) of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for any tax year beginning on or before December 31, 1980. The deduction allowed under section 604 of the Tax Reform Act of 1976, as amended up to and including December 31, 1980, is allowable in computing Iowa net income, for tax years beginning on or before December 31, 1980, under provisions effective for the year for which the return is made. The deduction allowed under section 162(h) of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for any tax year beginning on or after January 1, 1981. The deduction allowed under section 604 of the Tax Reform Act of 1976, as amended up to and including December 31, 1980, is allowable in computing Iowa net income for tax years beginning on or after January 1, 1981. The maximum allowable deduction, other than for travel expense, shall not exceed fifty dollars per day, where the taxpayer elects on the Iowa return to be governed by section 604 of the Tax Reform Act of 1976, as amended up to and including December 31, 1980, unless the taxpayer itemized expenses.

16. Add the amounts deducted and subtract the amounts included as income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the Internal Revenue Code of 1954. Entitlement to depreciation on any property included in a sale-leaseback agreement shall be determined under the Internal Revenue Code of 1954, excluding section 168(f)(8) in making the determination.

17. Subtract the amount of unemployment compensation to be included in Iowa net income for any tax year. Add back the amount of unemployment compensation computed under section 85 of the Internal Revenue Code of 1954, as amended up to and including December 31, 1981. This subsection is effective only for the tax year beginning on or after January 1, 1982 and before December 31, 1982.

18. If the adjusted gross income includes income or loss from a small business operated by the taxpayer, an additional deduction shall be allowed in computing the income or loss from the small business if the small business hired for employment in the state during its annual accounting period ending with or during the taxpayer's tax year any of the following:

a. A handicapped individual domiciled in this state at the time of the hiring meets any of the following conditions:

(1) Has a physical or mental impairment which substantially limits one or more major life activities.

(2) Has a record of that impairment.

(3) Is regarded as having that impairment.

b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to chapter 906.

(3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to chapter 247A.

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 247.40 applies.

The amount of the additional deduction is equal to fifty percent of the wages paid to individuals named in paragraphs a, b, and c who were hired for the first time by that business during the annual accounting period for work done in the state. This additional deduction is allowed for the wages paid to those individuals successfully completing a probationary period during the twelve months following the date of first employment by the business and shall be deducted at the close of the annual accounting period.

The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the twelve-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the Iowa department of job service, the additional deduction shall be allowed.

A taxpayer who is a partner of a partnership or a shareholder of a subchapter S corporation, may deduct that portion of wages qualified under this subsection paid by the partnership or subchapter S corporation based on the taxpayer's pro rata share of the profits or losses from the partnership or subchapter S corporation.

For purposes of this subsection, "physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

For purposes of this subsection, "small business" means small business as defined in section 220.1, subsection 28, except that it shall also include the operation of a farm.

(83 Acts, ch 179, § 5, 6, 21, 24) SF 386

Amendments to subsection 16 retroactive to January 1, 1981 for tax years beginning on or after that date. New subsection 17 retroactive to January 1, 1982, for tax years beginning on or after that date, and applicable for tax years beginning prior to that date where the IRC as amended through January 14, 1983, provides for certain inclusions or exclusions in computing federal taxable income for a tax year beginning prior to that date.

Subsection 16 amended

NEW subsection 17

(83 Acts, ch 174, § 1, 3) SF 524

Subsection 18 effective January 1, 1984 for tax years beginning on or after that date

NEW subsection 18

422.8 Allocation of income earned in Iowa and other states. Under rules prescribed by the director, net income of individuals, estates and trusts shall be allocated as follows:

1. The amount of income tax paid to another state or foreign country by a resident taxpayer of this state on income derived from sources outside of Iowa shall be allowed as a credit against the tax computed under this chapter, except that the credit shall not exceed what the amount of the Iowa tax would have been on the same income which was taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: Income earned outside of Iowa and taxed by another state or foreign country shall be divided by the total income of the resident taxpayer of Iowa. This quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. If any business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 14 and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state. However, income received by an individual who is a resident of another state is not allocated to Iowa if the income is subject to an income tax imposed by the state where the individual resides, and if the state of residence allows a similar exclusion for income received in that state by residents of Iowa. In order to implement the exclusions, the director shall designate by rule the states which allow a similar exclusion for income received by residents of Iowa, and may enter into agreements with other states to provide that similar exclusions will be allowed, and to provide suitable withholding requirements in each state.

3. Taxable income of resident and nonresident estates and trusts shall be allocated in the same manner as individuals.

(83 Acts, ch 16, § 1, 2) SF 288

Amendments to subsection 1 retroactive to January 1, 1983 for tax years beginning on or after that date; 83 Acts, ch 16, § 1, 2

Subsection 1 amended

422.9 Deductions from net income. In computing taxable income of individuals, there shall be deducted from net income the larger of the following amounts:

1. An optional standard deduction of fifteen percent of the net income after deduction of federal income tax, not to exceed one thousand two hundred dollars for a married person who files separately, one thousand two hundred dollars for a single person or three thousand dollars for a husband and wife who file a joint return, a surviving spouse as defined in section 2 of the Internal Revenue Code of 1954, or an unmarried head of household as defined in the Internal Revenue Code of 1954.

2. The total of contributions, interest, taxes, medical expense, nonbusiness losses and miscellaneous expenses deductible for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

a. Subtract the deduction for Iowa income taxes.

b. Add the amount of federal income taxes paid or accrued as the case may be, during the tax year, adjusted by any federal income tax refunds. Provided, however, that where married persons, who have filed a joint federal income tax return, file separately, such total shall be divided between them according to the portion thereof paid or accrued, as the case may be, by each.

c. Add the amount by which expenses paid or incurred in connection with the adoption of a child by the taxpayer exceed three percent of the net income of the taxpayer, or of the taxpayer and spouse in the case of a joint return. The expenses may include medical and hospital expenses of the natural mother which are incident to the child's birth and are paid by the taxpayer, welfare agency fees, legal fees, and all other fees and costs relating to the adoption of a child if the child is placed by a child-placing agency licensed under chapter 238 or by a person making an independent placement according to the provisions of chapter 600.

d. Add an additional deduction for mileage incurred by the taxpayer in voluntary work for a charitable organization consisting of the excess of the state employee mileage reimbursement over the amount deductible for federal income tax purposes. The deduction shall be proven by the keeping of a contemporaneous diary by the person throughout the period of the voluntary work in the tax year.

e. Subtract the adoption deduction permitted under section 222 of the Internal Revenue Code of 1954.

f. Add the amount, not to exceed five thousand dollars, of expenses not otherwise deductible under this section actually incurred in the home of the taxpayer for the care of a person who is the grandchild, child, parent, or grandparent of the taxpayer or the taxpayer's spouse and who is unable, by reason of physical or mental disability, to live independently and is receiving, or would be eligible to receive if living in a health care facility licensed under chapter 135C, medical assistance benefits under chapter 249A. In the event that the person being cared for is receiving assistance benefits under chapter 239, the expenses not otherwise deductible shall be the net difference between the expenses actually incurred in caring for the person and the assistance benefits received under chapter 239.

3. If after applying all of the adjustments provided for in section 422.7, the allocation provisions of section 422.8 and the deductions allowable in this section subject to the modifications provided in section 172(d) of the Internal Revenue Code of 1954, the taxable income results in a net operating loss, the net operating loss shall be deducted as follows:

a. The Iowa net operating loss shall be carried back three taxable years or to the taxable year in which the individual first earned income in Iowa whichever year is the later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" of this subsection or if not required to be carried back shall be carried forward fifteen taxable years.

c. If the election under section 172(b)(3)(C) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward fifteen taxable years.

4. Where married persons file separately, both must use the optional standard deduction if either elects to use it.

5. A taxpayer affected by section 422.8 shall, if the optional standard deduction is not used, be permitted to deduct only such portion of the total referred to in subsection 2 above as is fairly and equitably allocable to Iowa under the rules prescribed by the director.

(83 Acts, ch 179, § 7, 22) SF 386

Retroactive to January 1, 1983 for tax years beginning on or after that date

Subsection 2, paragraph c struck and following paragraphs relettered

422.10 Research activities credit. The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit shall equal six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred

by a partnership, subchapter S corporation, and estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed under section 44F of the Internal Revenue Code of 1954, as amended to and including January 1, 1983.

Any credit in excess of the tax liability less personal exemption and child care credits provided in section 422.12 for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

(83 Acts, ch 179, § 8, 25) SF 386

Effective January 1, 1985 for tax years beginning on or after that date

NEW section

422.11 Iowa venture capital fund investment credit. The taxes imposed under this division, less credits permitted under section 422.12, shall be reduced by a state tax credit equal to five percent of the taxpayer's investment in the initial offering of securities by the Iowa venture capital fund established by the Iowa development commission and governed by a chapter 496A corporation and the Iowa venture capital fund Act*. Any credit in excess of the tax liability for the taxable year may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

In the case of an estate or trust, the credit shall be allocated between each beneficiary and the estate or trust based on the ratio that the income distributed to a beneficiary bears to the total distributable net income of the estate or trust for the taxable year.

(83 Acts, ch 207, § 89, 93) SF 548

Effective June 25, 1983

*Sections 28.61—28.66

NEW section

422.12 Deductions from computed tax. There shall be deducted from but not to exceed the tax, after the same shall have been computed as provided in this division, the following:

1. A personal exemption credit in the following amounts:
 - a. For a single individual, or a married person filing a separate return, fifteen dollars.
 - b. For a head of household, or a husband and wife filing a joint return, thirty dollars.
 - c. For each dependent, an additional ten dollars. As used in this section, the term "dependent" shall have the same meaning as provided by the Internal Revenue Code of 1954.
 - d. For a single individual, husband, wife or head of household, an additional exemption of fifteen dollars for each of said individuals who has attained the age of sixty-five years before the close of the tax year or on the first day following the end of the tax year.
 - e. For a single individual, husband, wife or head of household, an additional exemption of fifteen dollars for each of said individuals who is blind at the close of the tax year. For the purposes of this paragraph, an individual is blind only if the individual's central visual acuity does not exceed twenty-two hundredths in the better eye with correcting lenses, or if the individual's visual acuity is greater than twenty-two hundredths but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

f. For tax years beginning on or after January 1, 1979 and for each of the next four succeeding tax years, the amount of the personal exemption credits provided in this subsection shall be increased in the amount of one dollar for each tax year, except that the personal exemption credit allowed under paragraph "b" of this subsection shall be increased in the amount of two dollars for each tax year. The personal exemption credits determined pursuant to this paragraph for tax years beginning on or after January 1, 1983 shall continue for succeeding tax years.

2. A child and dependent care credit equal to ten percent of the qualifying employment-related expenses and subject to the same limitations provided by section 44A of the Internal Revenue Code of 1954.

Married taxpayers electing to file separate returns or filing separately on a combined return must allocate the child and dependent care credit to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Taxpayers affected by the allocation provisions of section 422.8 shall be permitted a deduction for the credit only in the amount as is fairly and equitably allocable to Iowa under rules prescribed by the director.

3. A political contributions credit equal to five percent of the first one hundred dollars donated as a political contribution as defined in section 41(c) of the Internal Revenue Code of 1954. In the case of a married couple filing a joint return, a political contributions credit equal to five percent of the first two hundred dollars donated shall be allowed.

4. For the purpose of this section, the determination of whether an individual is married shall be made as of the close of the individual's tax year unless the individual's spouse dies during the individual's tax year, in which case the determination shall be made as of the date of the spouse's death. An individual legally separated from his or her spouse under a decree of divorce or of separate maintenance shall not be considered married.

(83 Acts, ch 179, § 9, 10, 22) SF 386

Retroactive to January 1, 1983 for tax years beginning on or after that date

Subsection 2 amended

NEW subsection 3 and following subsection renumbered

422.16 Withholding of income tax at source.

1. Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code of 1954, with respect to income tax collected at source, making payment of wages to either a resident employee or employees, or a nonresident employee or employees, working in Iowa, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's personal exemptions and dependency exemptions or credits to be used in applying the tables and schedules or percentage rates, provided that no more personal or dependency exemptions or credits may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under section 3204(m)(1) of the Internal Revenue Code of 1954. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

2. A withholding agent required to deduct and withhold tax under subsections 1 and 12, except those required to deposit on a semimonthly basis, shall deposit for each calendar quarterly period, on or before the last day of the month following the close of the quarterly period, on a quarterly deposit form as prescribed by the director and shall pay to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under subsections 1 and 12. However, a withholding agent who withholds more than fifty dollars in any one month, except those required

to deposit on a semimonthly basis, shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for the amount withheld in the third month of the quarter but the total amount of withholding for the quarter shall be computed and the amount by which the deposits for that quarter fail to equal the total quarterly liability is due with the filing of the quarterly deposit form. The quarterly deposit form is due within the month following the end of the quarter. A withholding agent who withholds more than eight thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a semimonthly deposit form as prescribed by the director. The first semimonthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semimonthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs.

Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return.

If the director has reason to believe that the collection of the tax provided for in subsections 1 and 12 is in jeopardy, the director may require the employer or withholding agent to make the report and pay the tax at any time, in accordance with section 422.30. The director may authorize incorporated banks, trust companies, or other depositories authorized by law which are depositories or financial agents of the United States or of this state, to receive any tax imposed under this chapter, in the manner, at the times, and under the conditions the director prescribes. The director shall also prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

3. Every withholding agent employing not more than two persons who expects to employ either or both of such persons for the full calendar year may, with respect to such persons, pay with the withholding tax return due for the first calendar quarter of the year the full amount of income taxes required to be withheld from the wages of such persons for the full calendar year. The amount to be paid shall be computed as if the employee were employed for the full calendar year for the same wages and with the same pay periods as prevailed during the first quarter of the year with respect to such employee. No such lump sum payment of withheld income tax shall be made without the written consent of all employees involved. The withholding agent shall be entitled to recover from the employee any part of such lump sum payment that represents an advance to the employee. If a withholding agent pays a lump sum with the first quarterly return he shall be excused from filing further quarterly returns for the calendar year involved unless he hires other or additional employees.

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12 hereof, shall be deemed to be held in trust for the state of Iowa.

5. In the event a withholding agent fails to withhold and pay over to the department any amount required to be withheld under subsections 1 and 12 of this section, such amount may be assessed against such employer or withholding agent in the same manner as prescribed for the assessment of income tax under the provisions of divisions II and VI of this chapter.

6. Whenever the director determines that any employer or withholding agent has failed to withhold or pay over to the department sums required to be withheld under

subsections 1 and 12 of this section the unpaid amount thereof shall be a lien as defined in section 422.26, shall attach to the property of said employer or withholding agent as therein provided, and in all other respects the procedure with respect to such lien shall apply as set forth in said section 422.26.

7. Every withholding agent required to deduct and withhold a tax under subsections 1 and 12 of this section shall furnish to such employee, nonresident, or other person in respect of the remuneration paid by such employer or withholding agent to such employee, nonresident, or other person during the calendar year, on or before January 31 of the succeeding year, or, in the case of employees, if the employee's employment is terminated before the close of such calendar year, within thirty days from the day on which the last payment of wages is made, if requested by such employee, but not later than January 31 of the following year, a written statement showing the following:

a. The name and address of such employer or withholding agent, and the identification number of such employer or withholding agent.

b. The name of the employee, nonresident, or other person and his federal social security account number, together with the last known address of such employee, nonresident, or other person to whom wages have been paid during such period.

c. The gross amount of wages, or other taxable income, paid to the employee, nonresident, or other person.

d. The total amount deducted and withheld as tax under the provisions of subsections 1 and 12 of this section.

e. The total amount of federal income tax withheld.

The statements required to be furnished by this subsection in respect of any wages or other taxable Iowa income shall be in such form or forms as the director may, by regulation, prescribe.

8. An employer or withholding agent shall be liable for the payment of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, under subsections 1 and 12 of this section; and any amount deducted and withheld as tax under subsections 1 and 12 of this section during any calendar year upon the wages of any employee, nonresident, or other person shall be allowed as a credit to the employee, nonresident, or other person against the tax imposed by section 422.5, irrespective of whether or not such tax has been, or will be, paid over by the employer or withholding agent to the department as provided by this chapter.

9. The amount of any overpayment of the individual income tax liability of the employee taxpayer, nonresident, or other person which may result from the withholding and payment of withheld tax by the employer or withholding agent to the department under subsections 1 and 12, as compared to the individual income tax liability of the employee taxpayer, nonresident, or other person properly and correctly determined under the provisions of section 422.4, to and including section 422.25, may be credited against any income tax or installment thereof then due the state of Iowa and any balance of one dollar or more shall be refunded to the employee taxpayer, nonresident or other person with interest at the rate in effect under section 421.7 for each month or fraction of a month, the interest to begin to accrue on the first day of the second calendar month following the date the return was due to be filed or was filed, whichever is the later date. Amounts less than one dollar shall be refunded to the taxpayer, nonresident, or other person only upon written application, in accordance with section 422.73, and only if the application is filed within twelve months after the due date of the return. Refunds in the amount of one dollar or more provided for by this subsection shall be paid by the treasurer of state by warrants drawn by the comptroller at the direction of the director, or an authorized employee of the department, and the taxpayer's return of income shall constitute a claim for refund for this purpose, except in respect to amounts of less than one dollar. There is appropriated, out of any funds in the state treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this subsection.

10. a. An employer or withholding agent required under this chapter to furnish a statement required by this chapter who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish the statement is, for each failure, subject to a civil penalty of five hundred dollars, the penalty to be in addition to any criminal penalty otherwise provided by the Code.

b. An employer or withholding agent required to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a semimonthly, monthly, or quarterly deposit form for the withholding of tax with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the semimonthly, monthly, or quarterly deposit form five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate.

If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the semimonthly, monthly, or quarterly deposit form on or before the due date, or pays less than ninety percent of any tax required to be shown on the semimonthly, monthly, or quarterly deposit form, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate.

When penalties are applicable for failure to file a semimonthly, monthly, or quarterly deposit form and failure to pay the tax due or required on the semimonthly, monthly, or quarterly deposit form, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the semimonthly, monthly, or quarterly deposit form. In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, fifty percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

c. If any withholding agent, being a domestic or foreign corporation, required under the provisions of this section to withhold on wages or other taxable Iowa income subject to this chapter, fails to withhold the amounts required to be withheld, make the required returns or remit to the department the amounts withheld, the director may, having exhausted all other means of enforcement of the provisions of this chapter, certify such fact or facts to the secretary of state, who shall thereupon cancel the articles of incorporation or certificate of authority (as the case may be) of such corporation, and the rights of such corporation to carry on business in the state of Iowa shall thereupon cease. The secretary of state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by him. The provisions of section 422.40, subsection 3, shall be applicable.

d. The department shall upon request of any fiduciary furnish said fiduciary with a certificate of acquittance showing that no liability as a withholding agent exists with respect to the estate or trust for which said fiduciary acts, provided the department has determined that there is no such liability.

11. a. Every person or married couple filing a joint return shall make a declaration of estimated tax if his or their Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars

or more for the taxable year, except that, in the cases of farmers and fishermen, the exceptions provided in the Internal Revenue Code of 1954 with respect to such declarations shall apply. The declaration provided for herein shall be filed on or before the last day of the fourth month of the taxpayer's tax year for which such declaration is filed, in such form as the director may require by regulations. The estimated tax shall be paid in quarterly installments. The first installment shall be paid at the time of filing the declaration. The other installments shall be paid on or before June 30, September 30, and January 31. However, at the election of the person or married couple filing jointly, any installment of the estimated tax may be paid prior to the date prescribed for its payment. Whenever a person or married couple filing a joint return have reason to believe that his or their Iowa income tax may increase or decrease, either for purposes of meeting the requirement to file a declaration of estimated tax or for the purpose of increasing or decreasing such declaration, an amended estimate shall be filed by him or them to reflect such increase or decrease in estimated Iowa income tax.

b. In the case of persons or married couples filing jointly, the total balance of the tax payable after credits for taxes paid through withholding, as provided in subsection 1 of this section, or through declaration and payment of estimated tax, or a combination of such withholding and declaration of estimated tax payments, as provided herein, shall be due and payable on or before April 30, next following the close of the calendar year, or if the return should be made on the basis of a fiscal year, then on or before the last day of the fourth month next following the close of such fiscal year:

c. The declaration provided for in this section may be filed or amended during the taxable year under regulations prescribed by the director.

d. If a taxpayer is unable to make his own declaration, the declaration may be made by a duly authorized agent, or by the guardian or other person charged with the care of the person or property of such taxpayer.

e. Any amount of tax paid on a declaration of estimated tax shall be a credit against the amount of tax found payable on a final, completed return, as provided in subsection 9, relating to the credit for the tax withheld against the tax found payable on a return properly and correctly prepared under the provisions of section 422.5, to and including section 422.25, and any overpayment of one dollar or more shall be refunded to the taxpayer and the return shall constitute a claim for refund for this purpose. Amounts less than one dollar shall be refunded to the taxpayer only upon written application in accordance with section 422.74, but only if the application is filed within twelve months after the due date for the return. The method provided by the Internal Revenue Code of 1954 for determining what is applicable to the addition to tax for underpayment of the tax payable applies to persons required to file declarations and make payments of estimated tax under this section except the amount to be added to the tax for underpayment of estimated tax shall be an amount determined at the rate in effect under section 421.7. This addition to tax specified for underpayment of the tax payable is not subject to waiver provisions relating to reasonable cause. Underpayment of estimated tax shall be determined in the same manner as provided under the Internal Revenue Code of 1954 and the exceptions therein also apply.

f. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on his final, completed return for the taxable year credited to his tax liability for the following taxable year.

12. In the case of nonresidents having income subject to taxation by Iowa, but not subject to withholding of such tax under subsection 1 hereof, withholding agents shall withhold from such income at the same rate as provided in subsection 1 hereof, and such withholding agents and such nonresidents shall be subject to the provisions of this section, according to the context, except that such withholding agents may be absolved of such requirement to withhold taxes from such nonresident's income

upon receipt of a certificate from the department issued in accordance with the provisions of section 422.17, as hereby amended. In the case of nonresidents having income from a trade or business carried on by them in whole or in part within the state of Iowa, such nonresident shall be considered to be subject to the provisions of subsection 12 hereof unless such trade or business is of such nature that the business entity itself, as a withholding agent, is required to and does withhold Iowa income tax from the distributions made to such nonresident from such trade or business.

13. The director shall enter into an agreement with the secretary of the treasury of the United States with respect to withholding of income tax as provided by this chapter, pursuant to an Act of Congress, section 1207 of the Tax Reform Act of 1976, Public Law 94-455, amending title 5, section 5517 of the United States Code.

14. The director may, when necessary and advisable in order to secure the collection of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, require a nonresident employer or withholding agent to file with the director a bond, issued by a surety company authorized to conduct business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the director may fix, to secure the payment of the tax and penalty due or which may become due. In lieu of the bond, securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax and penalty due. Upon any such sale, any surplus above the amounts due under this section shall be returned to the nonresident employer or withholding agent who deposited the securities.

(83 Acts, ch 179, § 11) SF 386

Temporary waiver of addition to tax for underpayment of estimated tax payable for 1982, for certain farmers and fishermen; see 83 Acts, ch 179, § 19 (SF 386)

Subsection 1 amended

(83 Acts, ch 160, § 3, 4) HF 626

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 1 and subsection 10, paragraphs a and b amended

422.25 Computation of tax, interest, and penalties — limitation.

1. Within three years after the return is filed or within three years after the return became due, including any extensions of time for filing, whichever time is the later, the department shall examine it and determine the correct amount of tax, and the amount determined by the department shall be the tax. However if the taxpayer omits from income an amount as will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under the federal law, the period for examination and determination is six years. In addition to the applicable period of limitation for examination and determination, the department may make an examination and determination at any time within six months from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the six-months' period, the notice shall be in writing in any form sufficient to inform the department of the final disposition with respect to that year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to that prior year of a net operating loss or net capital loss, the period is the period of limitation for the taxable year of the net operating loss or net capital loss which results in the carryback. The burden of proof of additional tax owing under the six-year period, or unlimited period, is on the department. If the

tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall notify the taxpayer by certified mail of the total, which shall be computed as a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

2. In addition to the tax or additional tax determined by the department under subsection 1, the taxpayer shall pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. In case of failure to file a return with the department on or before the due date determined with regard to any extension of time for filing, unless it is shown that the failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

3. If the amount of the tax as determined by the department is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the director. If an overpayment of tax results from a net operating loss or net capital loss which is carried back to a prior year, the overpayment, for purposes of computing interest on refunds, shall be considered as having been made at the close of the taxable year in which the net operating loss or net capital loss occurred or on the first day of the second calendar month following the date of the actual payment of the tax, whichever is later. However, when the net operating loss or net capital loss carryback to a prior year eliminates or reduces an underpayment of tax due for an earlier year, the full amount of the underpayment of tax shall bear interest at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month from the due date of the tax for the earlier year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

4. All payments received must be credited first, to the penalty and interest accrued, and then to the tax due.

5. A person or withholding agent required to supply information, to pay tax, or to make, sign, or file a semimonthly, monthly, or quarterly deposit form or return

or supplemental return, who willfully makes a false or fraudulent semimonthly, monthly, or quarterly deposit form or return, or willfully fails to pay the tax, supply the information, or make, sign, or file the semimonthly, monthly, or quarterly deposit form or return, at the time or times required by law, is guilty of a fraudulent practice.

6. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required under the provisions of this division shall be prima facie evidence thereof except as otherwise provided in this section.

7. The periods of limitation provided by this section may be extended by the taxpayer by signing a waiver agreement to be provided by the department. Such agreement shall stipulate the period of extension and the year or years to which such extension applies. It shall further provide that a claim for refund may be filed by the taxpayer at any time during the period of extension. In consideration of such agreement, interest due in excess of thirty-six months on either a tax deficiency or tax refund shall be waived.

8. A person or withholding agent who willfully attempts in any manner to defeat or evade a tax imposed by this division or the payment of the tax, upon conviction for each offense is guilty of a class "D" felony.

9. The jurisdiction of any offense as defined in this section is in the county of the residence of the person so charged, unless such person be a nonresident of this state or his residence in this state is not established, in either of which events jurisdiction of such offense is in the county of the seat of government of the state of Iowa.

10. A prosecution for any offense defined in this section must be commenced within six years after the commission thereof, and not after.

(83 Acts, ch 160, § 5) HF 626
Subsections 5 and 8 amended

422.32 Definitions. For the purpose of this division and unless otherwise required by the context:

1. The word "*corporation*" includes joint stock companies, and associations organized for pecuniary profit, except limited partnerships organized under chapter 545.

2. The words "*domestic corporation*" mean any corporation organized under the laws of this state.

3. The words "*foreign corporation*" mean any corporation other than a domestic corporation.

4. "*Internal Revenue Code of 1954*" means the Internal Revenue Code of 1954, as amended to and including January 14, 1983.

5. The term "*affiliated group*" means a group of corporations as defined in section 1504(a) of the Internal Revenue Code of 1954.

6. The term "*unitary business*" means a business carried on partly within and partly without a state where the portion of the business carried on within the state depends on or contributes to the business outside the state.

7. "*Business income*" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

8. "*Nonbusiness income*" means all income other than business income.

9. "*Commercial domicile*" means the principal place from which the trade of business of the taxpayer is directed or managed.

10. "*Taxable in another state*". For purposes of allocation and apportionment of income under this division, a taxpayer is taxable in another state if:

a. In that state he or she is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

b. That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

11. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

12. For purposes of section 422.32, subsection 4, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

The words, terms, and phrases defined in division II, section 422.4, subsections 1, and 3 to 10, when used in this division, shall have the meanings ascribed to them in said section except where the context clearly indicates a different meaning.

(83 Acts, ch 179, § 12, 13, 21, 23) SF 386

Amendment to subsection 4 retroactive to January 1, 1982 for tax years beginning on or after that date, and applicable for tax years beginning prior to that date where the IRC as amended through January 14, 1983, provides for certain inclusions or exclusions in computing federal taxable income for a tax year beginning prior to that date

New subsection 12 retroactive to tax years ending after December 31, 1982, but only with respect to commodities received for the 1983 crop year

Subsection 4 amended
NEW subsection 12

422.33 Corporate tax imposed — credit.

1. A tax is hereby imposed upon each corporation organized under the laws of this state, and upon every foreign corporation doing business in this state, annually in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

a. On the first twenty-five thousand dollars of taxable income, or any part thereof, the rate of six percent.

b. On taxable income between twenty-five thousand dollars and one hundred thousand dollars or any part thereof, the rate of eight percent.

c. On taxable income between one hundred thousand dollars and two hundred fifty thousand dollars or any part thereof, the rate of ten percent.

d. On taxable income of two hundred fifty thousand dollars or more, the rate of twelve percent.

2. If the trade or business of the corporation is carried on entirely within the state, or if the trade or business consists of the operation of a farm and the property is located entirely within the state, the tax shall be imposed on the entire net income, but if such trade or business is carried on partly within and partly without the state, or if the trade or business consists of the operation of a farm and the property is located partly within and partly without the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business within the state, said net income attributable to the state to be determined as follows:

a. Nonbusiness interest, dividends, rents and royalties, less related expenses, shall be allocated within and without the state in the following manner:

(1) Nonbusiness interest, dividends, and royalties from patents and copyrights shall be allocable to this state if the taxpayer's commercial domicile is in this state.

(2) Nonbusiness rents and royalties received from real property located in this state are allocable to this state.

(3) Nonbusiness rents and royalties received from tangible personal property are allocable to this state to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property is utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown, or unascertainable by the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

(4) Nonbusiness capital gains and losses from the sale or other disposition of assets shall be allocated as follows:

Gains and losses from the sale or other disposition of real property located in this state are allocable to this state.

Gains and losses from the sale or other disposition of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale or disposition or if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

Gains and losses from the sale or disposition of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

b. Net nonbusiness income of the above class having been separately allocated and deducted as above provided, the remaining net business income of the taxpayer shall be allocated and apportioned as follows:

(1) Business interest, dividends, rents, and royalties shall be reasonably apportioned within and without the state under rules adopted by the director.

(2) Capital gains and losses from the sale or other disposition of assets shall be apportioned to the state based upon the business activity ratio applicable to the year the gain or loss is determined if the corporation determines Iowa taxable income by a sales, gross receipts or other business activity ratio. If the corporation has only allocable income, capital gains and losses from the sale or other disposition of assets shall be allocated in accordance with paragraph "a", subparagraph (4).

(3) Where income is derived from business other than the manufacture or sale of tangible personal property, the income shall be specifically allocated or equitably apportioned within and without the state under rules of the director.

(4) Where income is derived from the manufacture or sale of tangible personal property, the part attributable to business within the state shall be in that proportion which the gross sales made within the state bear to the total gross sales.

(5) Where income consists of more than one class of income as provided in subparagraphs (1) to (4) of this paragraph, it shall be reasonably apportioned by the business activity ratio provided in rules adopted by the director.

(6) The gross sales of the corporation within the state shall be taken to be the gross sales from goods delivered or shipped to a purchaser within the state regardless of the f.o.b. point or other conditions of the sale, excluding deliveries for transportation out of the state.

For the purpose of this section, the word "sale" shall include exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing. The words "tangible personal property" shall be taken to mean corporeal personal property, such as machinery, tools, implements, goods, wares, and merchandise, and shall not be taken to mean money deposits in banks, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidences of debt.

3. If any taxpayer believes that the method of allocation and apportionment hereinbefore prescribed, as administered by the director and applied to his business, has operated or will so operate as to subject him to taxation on a greater portion of his net income than is reasonably attributable to business or sources within the state, he shall be entitled to file with the director a statement of his objections and of such alternative method of allocation and apportionment as he believes to be proper under the circumstances with such detail and proof and within such time as the director may reasonably prescribe; and if the director shall conclude that the method of allocation and apportionment theretofore employed is in fact inapplicable and inequitable, the director shall redetermine the taxable income by such other method of allocation and apportionment as seems best calculated to assign to the state for taxation the portion of the income reasonably attributable to business and sources within the state, not exceeding, however, the amount which would be arrived at by application of the statutory rules for apportionment.

4. In addition to all taxes imposed under this division, there is imposed upon each corporation doing business within the state a state minimum tax for tax preference equal to seventy percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preferences attributable to Iowa which shall be based as much as equitably possible on the allocation and apportionment provisions of subsections 2 and 3. For purposes of this subsection, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 to 58 of the Internal Revenue Code of 1954 for the tax year.

5. The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed under section 44F of the Internal Revenue Code of 1954, as amended to and including January 1, 1983.

Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following taxable year.

6. The taxes imposed under this division shall be reduced by a state tax credit equal to five percent of the taxpayer's investment in the initial offering of securities by the Iowa venture capital fund established by the Iowa development commission and governed by a chapter 496A corporation and the Iowa venture capital fund Act*. Any credit in excess of the tax liability for the taxable year may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

(83 Acts, ch 179, § 14, 15, 22, 25) SF 386

Amendments to subsection 4 retroactive to January 1, 1983 for tax years beginning on or after that date; new subsection 5 effective January 1, 1985, for tax years beginning on or after that date

Subsection 4 amended
NEW subsection 5

(83 Acts, ch 207, § 90, 93) SF 548

Effective June 25, 1983

*Sections 28.61—28.66

NEW subsection 6

422.35 Net income of corporation — how computed. The term "net income" means the taxable income before the net operating loss deduction, as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

1. Subtract interest and dividends from federal securities.
2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code of 1954.

3. Where the net income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1934, an adjustment may be made, under rules and regulations prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.

4. Subtract fifty percent of the federal income taxes paid or accrued, as the case may be, during the tax year, adjusted by any federal income tax refunds; and add the Iowa income tax deducted in computing said taxable income.

5. Add the amount by which the basis of qualified depreciable property is required to be increased for depreciation purposes under the Internal Revenue Code Amendments Act of 1964 to the extent that such amount equals the net amount of the special deduction allowed on the basis of the amount by which the depreciable basis of such qualified property was required to be reduced for depreciation purposes under the Internal Revenue Code Amendments Act of 1962. The "net amount of the special deduction" shall be computed by taking the sum of the amounts by which the basis of qualified property was required to be decreased for depreciation purposes for the years 1962 and 1963 and subtracting from it the sum of the amounts by which the basis of such property was required to be increased, prior to 1964, for depreciation or disposition purposes under the Internal Revenue Code Amendments Act of 1962.

6. Subtract the amount of the work incentive programs credit allowable for the tax year under section 40 or the jobs tax credit allowable for the tax year under section 44B of the Internal Revenue Code of 1954 to the extent that the credit increased federal taxable income.

7. If the taxpayer is a small business corporation, subtract an amount equal to fifty percent of the wages paid to individuals named in paragraphs "a", "b", and "c" who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. A handicapped individual domiciled in this state at the time of the hiring meets any of the following conditions:

(1) Has a physical or mental impairment which substantially limits one or more major life activities.

(2) Has a record of that impairment.

(3) Is regarded as having that impairment.

b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

(1) Has been convicted of a felony in this or any other state or the District of Columbia.

(2) Is on parole pursuant to chapter 906.

(3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.

(4) Is in a work release program pursuant to chapter 247A.

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 247.40 applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period named in paragraphs "a", "b", and "c" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

For purposes of this subsection, "physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

For purposes of this subsection, "small business" means small business as defined in section 220.1, subsection 28, except that it shall also include the operation of a farm.

8. Subtract the amount of the alcohol fuel credit allowable for the tax year under section 44E of the Internal Revenue Code of 1954 to the extent that the credit increased federal taxable income.

9. Add the amounts deducted and subtract the amounts included in income as a result of the treatment provided sale- leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the other provisions of the Internal Revenue Code of 1954. Entitlement to depreciation on any property involved in a sale-leaseback agreement shall be determined under the Internal Revenue Code of 1954, excluding section 168(f)(8) in making the determination.

10. Add the amount of windfall profits tax deducted under section 164(a) of the Internal Revenue Code of 1954.

11. If after applying all of the adjustments provided for in this section and the allocation and apportionment provisions of section 422.33, the Iowa taxable income results in a net operating loss, such net operating loss shall be deducted as follows:

a. The Iowa net operating loss shall be carried back three taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" of this subsection or if not required to be carried back shall be carried forward fifteen taxable years.

c. If the election under section 172(b)(3)(C) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward fifteen taxable years.

d. No portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall be deducted.

Provided, however, that a corporation affected by the allocation provisions of section 422.33 shall be permitted to deduct only such portion of the deductions for net operating loss and federal income taxes as is fairly and equitably allocable to Iowa, under rules prescribed by the director.

(83 Acts, ch 174, § 2, 3) SF 524

Effective January 1, 1984 for tax years beginning on or after that date

NEW subsection 7 and following subsections renumbered

(83 Acts, ch 179, § 16, 24) SF 386

Retroactive to January 1, 1981 for tax years beginning on or after that date

Subsection 9 (formerly 8) amended

422.40 Cancellation of authority — penalty — offenses.

1. If a corporation required by the provisions of this division to file any report or return or to pay any tax or fee, either as a corporation organized under the laws of this state, or as a foreign corporation doing business in this state for profit, or owning and using a part or all of its capital or plant in this state, fails or neglects to make any such report or return or to pay any such tax or fee for ninety days after the time prescribed in this division for making such report or return, or for paying such tax or fee, the director may certify such fact to the secretary of state. The secretary of state shall thereupon cancel the articles of incorporation of any such corporation which is organized under the laws of this state by appropriate entry upon the margin of the record thereof, or cancel the certificate of authority of any such foreign corporation to do business in this state by proper entry. Thereupon all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease and determine. The secretary of state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by him.

2. Any person or persons who shall exercise or attempt to exercise any powers, privileges, or franchises under articles of incorporation or certificate of authority after the same are canceled, as provided in any section of this division, shall pay a penalty of not less than one hundred dollars nor more than one thousand dollars, to be recovered by an action to be brought by the director.

3. Any corporation whose articles of incorporation or certificate of authority to do business in this state have been canceled by the secretary of state, as provided

in subsection 1, or similar provisions of prior revenue laws, upon the filing, within ten years after such cancellation, with the secretary of state, of a certificate from the department that it has complied with all the requirements of this division and paid all state taxes, fees, or penalties due from it, and upon the payment to the secretary of state of an additional penalty of fifty dollars, shall be entitled again to exercise its rights, privileges, and franchises in this state; and the secretary of state shall cancel the entry made by him under the provisions of subsection 1 or similar provisions of prior revenue laws, and shall issue his certificate entitling such corporation to exercise its rights, privileges and franchises.

4. A person, officer or employee of a corporation, or member or employee of a partnership, who, with intent to evade a requirement of this division or a lawful requirement of the director, fails to pay tax or fails to make, sign, or verify a return or fails to supply information required under this division, is guilty of a fraudulent practice. A person, corporation, officer or employee of a corporation, or member or employee of a partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director, makes, renders, signs, or verifies a false or fraudulent return or statement, or supplies false or fraudulent information, or who aids, abets, directs, causes, or procures anyone so to do, is guilty of a class "D" felony. The penalty is in addition to all other penalties in this division.

(83 Acts, ch 160, § 6) HF 626

Subsection 4 amended

422.42 Definitions. The following words, terms, and phrases, when used in this division, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "*Person*" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

2. "*Sales*" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

3. "*Retail sale*" or "*sale at retail*" means the sale to a consumer or to any person for any purpose, other than for processing or for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services, and the sale of gas, electricity, water, and communication service to retail consumers or users, but does not include commercial fertilizer or agricultural limestone or materials, but not tools or equipment, which are to be used in disease control, weed control, insect control or health promotion of plants or livestock produced as part of agricultural production for market, or electricity or steam or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that such property shall by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail, or shall be consumed as fuel in creating heat, power, or steam for processing including grain drying or for generating electric current, or consumed in implements of husbandry engaged in agricultural production, or such property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides shall be deemed a retail sale for purposes of the processing exemption.

Notwithstanding the foregoing provisions of this subsection, the sale of newsprint and ink delivered after April 1, 1970 to any person, firm or corporation to be incorporated in or used in the printing of any newspaper, free newspaper or shoppers

guide for publication in this state shall be considered as a sale at retail and such person, firm or corporation shall be deemed to be the consumer of such newsprint and ink and subject to the payment of sales tax.

4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

5. "Retailer" includes every person engaged in the business of selling tangible goods, wares, merchandise or taxable services at retail, or the furnishing of gas, electricity, water, and communication service, and tickets or admissions to places of amusement and athletic events as provided in this division or operating amusement devices or other forms of commercial amusement from which revenues are derived; provided, however, that when in the opinion of the director it is necessary for the efficient administration of this division to regard any salesmen, representatives, truckers, peddlers, or canvassers, as agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain tangible personal property sold by them irrespective of whether or not they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them, and may regard such dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this division.

6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise; provided, however,

a. That discounts for any purpose allowed and taken on sales shall not be included if excessive sales tax is not collected from the purchaser, nor shall the sale price of property returned by customers when the total sale price thereof is refunded either in cash or by credit.

b. That in transactions in which tangible personal property is traded toward the purchase price of other tangible personal property the gross receipts are only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:

(1) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and will be subject to the tax under section 422.43 when sold or is intended to be used by the retailer or another in the remanufacturing of a like item.

7. "Relief agency" means the state, any county, city and county, city or district thereof, or any agency engaged in actual relief work.

8. The word "taxpayer" includes any person within the meaning of subsection 1 hereof, who is subject to a tax imposed by this division, whether acting for himself or as a fiduciary.

9. Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders, for the erection of buildings or the alteration, repair or improvement of real property, are retail sales in whatever quantity sold. Where the owner, contractor, subcontractor or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, he shall purchase such items of tangible personal property without liability for the tax if such property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes. The sales tax shall be due in the reporting period when the materials, supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail.

10. The use within this state of tangible personal property by the manufacturer thereof, as building materials, supplies or equipment, in the performance of construction contracts or for any other purpose except for resale or processing, shall, for the purpose of this division, be construed as a sale at retail thereof by the manufacturer who shall be deemed to be the consumer of such tangible personal

property. The tax shall be computed upon the cost to him of the fabrication or production thereof.

11. "Place of business" shall mean any warehouse, store, place, office, building or structure where goods, wares or merchandise are offered for sale at retail or where any taxable amusement is conducted or each office where gas, water, heat, communication or electric services are offered for sale at retail.

12. "Casual sales" means:

a. Sales of a nonrecurring nature of tangible personal property by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section 422.43.

b. The sale of all or substantially all of the tangible personal property held or used by a retailer in the course of the retailer's trade or business for which the retailer is required to hold a sales tax permit when the retailer sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

13. "Services" means all acts or services rendered, furnished, or performed, other than services performed on tangible personal property delivered into interstate commerce, or services used in processing of tangible personal property for use in taxable retail sales or services, for an "employer" as defined in section 422.4, subsection 15, for a valuable consideration by any person engaged in any business or occupation specifically enumerated in this division. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user thereof.

"Services used in the processing of tangible personal property" includes the reconditioning or repairing of tangible personal property of the type normally sold in the regular course of the retailer's business and which is held for sale upon which the gross receipts tax under this division or the use tax under chapter 423 will be paid when the tangible personal property is sold.

14. "User" means the immediate recipient of the services who is entitled to exercise a right of power over the product of such services.

15. "Value of services" means the price to the user exclusive of any direct tax imposed by the federal government or by this division.

16. "Gross taxable services" means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed in this state except where such service is performed on tangible personal property delivered into interstate commerce or is used in processing of tangible personal property for use in taxable retail sales or services and embraced within the provisions of this division. However, the taxpayer may take credit in his report of gross taxable services for an amount equal to the value of services rendered, furnished, or performed when the full value of such services thereof is refunded either in cash or by credit. Taxes paid on gross taxable services represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax due hereunder, but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts so collected.

Where a retailer or amusement operator sells merchandise by means of vending machines or operates music or amusement devices by coin-operated machines at more than one location within the state, the office, building or place where the books, papers and records of the taxpayer are kept shall be deemed to be the taxpayer's place of business.

Every operator of a vending machine or amusement device equipment, the receipts from the operation of which are taxable under section 422.43, shall by means of a sticker identify each such machine operated by him or her to show the valid sales tax permit number issued to him or her under which the sales tax concerning the operation of each given machine is being reported and remitted to the department.

The stickers shall be provided by the department and it shall be the duty of each operator to place and maintain same in a place easily seen by the user on each machine operated by him or her. Failure to so identify such machines shall be a simple misdemeanor.

(83 Acts, ch 158, § 1) SF 56

Subsection 6, paragraph b, subparagraph (2) amended

422.43 Tax imposed.

1. There is imposed a tax of four percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

2. There is imposed a tax of four percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles and bingo games as defined in chapter 99B, and commercial amusement enterprises operated or conducted within the state of Iowa, the tax to be collected from the operator in the same manner as is provided for the collection of taxes upon the gross receipts of tickets or admission as provided in this section.

3. The tax thus imposed shall cover all receipts from the operation of games of skill, games of chance, raffles and bingo games as defined in chapter 99B, and musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, slot-operated devices selling merchandise not subject to the general sales taxes and on all receipts from devices or systems where prizes are in any manner awarded to patrons and upon the receipts from fees charged for participation in any game or other form of amusement, and generally upon the gross receipts from any source of amusement operated for profit not specified herein, and upon the gross receipts from which no tax is collected for tickets or admission, but no tax shall be imposed upon any activity exempt from sales tax under the provision of section 422.45, subsection 4. Every person receiving gross receipts from the sources as defined in this section shall be subject to all provisions of this division relating to retail sales tax and such other provisions of this chapter as may be applicable.

4. There is imposed a tax of four percent upon the gross receipts from the sales of optional service or warranty contracts which provide for the furnishing of labor and materials and require the furnishing of any taxable service enumerated under this section. The gross receipts are subject to tax even if some of the services furnished are not enumerated under this section. For the purpose of this division, the sale of an optional service or warranty contract is a sale of tangible personal property. Additional sales, services or use tax shall not be levied on services, parts, or labor provided under optional service or warranty contracts which are subject to tax under this section.

5. There is hereby imposed a like rate of tax upon the gross receipts from the renting of any and all rooms, apartments, or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. "Renting" and "rent" include any kind of direct or indirect charge for such rooms, apartments, sleeping quarters, or the use thereof. For the purposes of this division, such renting is regarded as a sale of tangible personal property at

retail. However, such tax shall not apply to the gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

6. All revenues arising under the operation of the provisions of this section shall become part of the state general fund.

7. Nothing herein shall legalize any games of skill or chance or slot-operated devices which are now prohibited by law.

8. There is imposed a tax of four percent upon the gross receipts from the rendering, furnishing, or performing of services as defined in section 422.42.

9. The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling (excluding investment services of trust departments); bank service charges; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical repair and installation; engraving, photography, and retouching; equipment rental; excavating and grading; farm implement repair of all kinds; flying service, except agricultural aerial application services and aerial commercial and charter transportation services; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; printing and binding; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; vulcanizing, recapping, and retreading; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing.

(83 Acts, ch 1, § 1, 2, 3, 6) SF 184

Effective March 1, 1983

Former unnumbered paragraph 8 struck

Subsections 1, 2, 4 and 8 amended

422.45 Exemptions. There are hereby specifically exempted from the provisions of this division and from the computation of the amount of tax imposed by it, the following:

1. The gross receipts from sales of tangible personal property services rendered, furnished, or performed which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

2. The gross receipts from the sales, furnishing or service of transportation service.

3. The gross receipts from sales of educational, religious, or charitable activities, where the entire proceeds therefrom are expended for educational, religious, or charitable purposes, except the gross receipts from games of skill, games of chance, raffles and bingo games as defined in chapter 99B.

4. The gross receipts from sales of vehicles subject to registration or subject only to the issuance of a certificate of title.

5. The gross receipts or from services rendered, furnished, or performed and of all sales of goods, wares or merchandise used for public purposes to any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof, including the state board of regents, state department of human services, state

department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which have no earnings going to the benefit of an equity investor or stockholder except sales of goods, wares or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity or heat to the general public.

The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise or from services rendered, furnished, or performed and subject to use tax under the provisions of chapter 423.

6. The gross receipts from "casual sales".

7. A private nonprofit educational institution in this state or a tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which do not have earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency or instrumentality of the state or a political subdivision, or a private nonprofit educational institution in this state, if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, or is devoted to educational uses; except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit or private nonprofit educational institution which has made any written contract for performance by said contractor. Such forms shall be filed by the contractor with the governmental unit or educational institution before final settlement is made.

b. Such governmental unit or educational institution shall, not more than six months after the final settlement has been made, make application to the department for any refund of the amount of such sales or use tax which shall have been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, such application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit such claim and, if approved, request the comptroller to issue his warrant to such governmental unit or educational institution in the amount of such sales or use tax which has been paid to the state of Iowa under such contract.

c. Any contractor who shall willfully make false report of tax paid under the

provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax with penalty and interest thereon.

8. The gross receipts of all sales of goods, wares, or merchandise, or services, used for educational purposes to any private nonprofit educational institution in this state. The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise, or services, subject to use tax under the provisions of chapter 423.

9. Gross receipts from the sales of newspapers, free newspapers or shoppers guides and the printing and publishing thereof, and envelopes for advertising.

10. The gross receipts from sales of tangible personal property used or to be used as railroad rolling stock for transporting persons or property, or as materials or parts therefor.

11. The gross receipts from the sale of motor fuel and special fuel consumed for highway use or in watercraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the gross receipts from the sales of gasohol, as defined in section 324.2.

12. Gross receipts from the sale of all foods for human consumption which are eligible for purchase with food coupons issued by the United States department of agriculture pursuant to regulations in effect on July 1, 1974, regardless of whether the retailer from which the foods are purchased is participating in the food stamp program. However, as used in this subsection, "foods" does not include meals prepared for immediate consumption on or off the premises of the retailer, and does not include foods sold through vending machines.

13. The gross receipts from the sale of prescription drugs, as defined in section 155.3, subsection 10, if dispensed for human use or consumption by a registered pharmacist licensed under chapter 155, a physician and surgeon licensed under chapter 148, an osteopath licensed under chapter 150, an osteopathic physician and surgeon licensed under chapter 150A, a dentist licensed under chapter 153, or a podiatrist licensed under chapter 149.

14. Gross receipts from the sale of insulin, hypodermic syringes, and diabetic testing materials for human use or consumption.

15. Gross receipts from the sale or rental of prosthetic, orthotic or orthopedic devices for human use. For purposes of this subsection, "orthopedic devices" means those devices prescribed to be used for orthopedic purposes by a physician and surgeon licensed under chapter 148, an osteopath licensed under chapter 150, an osteopathic physician and surgeon licensed under chapter 150A, a dentist licensed under chapter 153, or a podiatrist licensed under chapter 149.

16. Gross receipts from the sale of oxygen prescribed by a licensed physician or surgeon, osteopath, or osteopathic physician or surgeon for human use or consumption.

17. The gross receipts from the sale of horses, commonly known as draft horses, when purchased for use and so used as a draft horse.

18. Gross receipts from the sale of tangible personal property, except vehicles subject to registration, to a person regularly engaged in the business of leasing if the period of the lease is for more than one year, such tangible personal property, and the leasing of such property is subject to taxation under this division. Tangible personal property exempt under this subsection if made use of for any purpose other than leasing or renting, the person claiming the exemption under this subsection shall be liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price. The aggregate of the tax paid on the leasing or rental of such tangible personal property, not to exceed the amount of the sales tax owed, shall be credited against such tax. This sales tax shall be in addition to any sales or use tax that may be imposed as a result of the disposal of such tangible personal property.

19. The gross receipts from the sale of property which is a container, label,

carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail.

20. The gross receipts from sales or services rendered, furnished or performed by a county or city. This exemption does not apply to the tax specifically imposed under section 422.43 on the gross receipts from the sales, furnishing or service of gas, electricity, water, heat and communication service to the public by a municipal corporation in its proprietary capacity.

21. The gross receipts from the sales by a trade shop to a printer of lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, typesetting, the end products of image modulation, or any base material used as a carrier for light-sensitive emulsions to be used by the printer to complete a finished product for sale at retail. For purposes of this subsection, "trade shop" means a business which is not normally engaged in printing and which sells supplies to printers, including but not limited to, those supplies enumerated in this subsection.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 5 and 7 amended

(83 Acts, ch 162, § 1, 2) HF 69

Retroactive to November 1, 1982 for tax paid upon sales occurring on or after that date

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 7, unnumbered paragraph 1 amended

(83 Acts, ch 129, § 1, 2, 3) SF 314

Retroactive to July 1, 1971; claims for refunds on transactions between July 1, 1971, and July 1, 1983 to be filed by September 1, 1983; total refunds not to exceed \$50,000 or claims to be prorated

NEW subsection 21

422.47 Refunds — exemption certificates.

1. *a.* A relief agency may apply to the director for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, merchandise, or services rendered, furnished, or performed, used for free distribution to the poor and needy.

b. Such refunds may be obtained only in the following amounts and manner and only under the following conditions:

(1) On forms furnished by the department, and filed within such time as the director shall provide by regulation, the relief agency shall report to the department the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, merchandise, or services rendered, furnished, or performed, used for free distribution to the poor and needy.

(2) On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency.

(3) The relief agency must prove to the satisfaction of the director that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this division, based upon such computation of gross receipts.

c. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the relief agency.

2. Construction contractors may make application to the department for a refund of the additional one percent tax paid under this division or the additional one percent tax paid under chapter 423 by reason of the increase in the tax from three to four percent for taxes paid on goods, wares, or merchandise under the following conditions:

a. The goods, wares, or merchandise are incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to March 1, 1983. The refund shall not apply to equipment transferred in fulfillment of a mixed construction contract.

b. The contractor has paid to the department or to a retailer the full four percent tax.

c. The claim is filed on forms provided by the department and is filed within one year of the date the tax is paid.

A contractor who makes an erroneous application for refund shall be liable for payment of the excess refund paid plus interest at the rate in effect under section 421.7. In addition, a contractor who willfully makes a false application for refund is guilty of a simple misdemeanor and is liable for a penalty equal to fifty percent of the excess refund claimed. Excess refunds, penalties, and interest due under this subsection may be enforced and collected in the same manner as the tax imposed by this division.

3. a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for purposes of resale or for processing.

b. The sales tax liability for all sales of tangible personal property and all sales of services shall be upon the seller unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section 422.42, subsection 3. Where the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall be solely liable for the taxes and shall remit said taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to such purchaser.

c. A valid exemption certificate is an exemption certificate which is complete and correct according to the requirements of the director.

d. A valid exemption certificate is taken in good faith by the seller when the seller has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one upon inquiry as to the facts. In order for a seller to take a valid exemption certificate in good faith, he or she must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, then such inquiry must be made with an honest intent to discover the facts.

e. If the circumstances change and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is liable solely for the taxes and shall remit the taxes directly to the department in accordance with this subsection.

(83 Acts, ch 1, § 4, 6) SF 184

Effective March 1, 1983

NEW subsection 2

422.53 Permits — applications for.

1. It is unlawful for any person to engage in or transact business as a retailer within this state, unless a permit has been issued to the retailer under this section, except as provided in subsection 6. Every person desiring to engage in or conduct business as a retailer within this state shall file with the department an application for a permit. Every application for a permit shall be made upon a form prescribed by the director and shall set forth the name under which the applicant transacts or intends to transact business, the location of the applicant's place of business, and any other information as the director may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the person's authority.

2. The applicant must have a permit for each place of business.

3. The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated. It shall at all times be conspicuously displayed at the place for which issued.

4. Permits issued under this division are valid and effective until revoked by the department.

5. If the holder of a permit fails to comply with any of the provisions of this division or any orders or rules of the department adopted under this division, the director upon hearing after giving ten days' notice of the time and place of the hearing to show cause why the permit should not be revoked, may revoke the permit. The director may restore permits after revocation. The director shall adopt rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

6. Persons who are not regularly engaged in selling at retail and do not have a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like, shall report and remit the tax on a nonpermit basis, under rules the director shall provide for the efficient collection of the sales tax.

7. The provisions of subsection 1, dealing with lawful right of a retailer to transact business, according to the context, apply to persons having receipts from rendering, furnishing, or performing services enumerated in section 422.43, except that a person holding a permit pursuant to subsection 1 shall not be required to obtain any separate sales tax permit for the purpose of engaging in business involving the services.

(83 Acts, ch 112, § 1) HF 527

Amended; former subsection 6 struck and following subsections renumbered

422.58 Penalties — offenses.

1. If a person fails to file a permit holder's semimonthly or monthly tax deposit form or a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the semimonthly or monthly tax deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a semimonthly or monthly tax deposit form or return, willful filing of a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a semimonthly or monthly tax deposit form or return and failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return, the penalty for failure to file

is in lieu of the penalty for failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

2. Any person who shall knowingly sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state without procuring a permit, as provided in section 422.53, or who shall violate the provisions of section 422.49, and the officers of any corporation who shall so act, shall be guilty of a simple misdemeanor.

Any person who shall knowingly sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state after the person's license shall have been revoked and before it has been restored as provided in section 422.53, subsection 5 and the officers of any corporation who shall so act shall be guilty of a serious misdemeanor.

3. A person who willfully attempts to evade a tax imposed by this division or the payment of the tax or a person who makes or causes to be made a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade the tax imposed by this division or the payment of the tax is guilty of a class "D" felony.

4. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this division, shall be prima facie evidence thereof.

5. A person required to pay a tax, or to make, sign, or file a semimonthly or monthly tax deposit form or return or supplemental return, who willfully makes a false or fraudulent semimonthly or monthly tax deposit form or return, or willfully fails to pay at least ninety percent of the tax or willfully fails to make, sign, or file the semimonthly or monthly tax deposit form or return, at the time required by law, is guilty of a fraudulent practice.

6. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense, unless the person is a nonresident of this state or the residence of the person cannot be established, in which event the situs of the offense is in Polk county.

7. A prosecution for an offense specified in this section shall be commenced within six years after its commission.

(83 Acts, ch 160, § 7) HF 626

Subsections 1, 3 and 5 amended

422.60 Imposition of tax. A franchise tax according to and measured by net income is hereby imposed on financial institutions for the privilege of doing business in this state as financial institutions.

In addition to all taxes imposed under this division, there is imposed upon each financial institution doing business within the state a state minimum tax for tax preference items equal to seventy percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preferences attributable to Iowa which shall be based as much as equitably possible on the

allocation and apportionment provisions of section 422.63. For purposes of this subsection, "federal minimum tax" means the federal minimum tax for tax preferences computed and paid or payable under sections 55 to 58 of the Internal Revenue Code of 1954.

(83 Acts, ch 179, § 17, 22) SF 386

Retroactive to January 1, 1983 for tax years beginning on or after that date

Unnumbered paragraph 2 amended

422.65 Allocation of revenue. Fifty-five percent of the total moneys received from the franchise tax shall be deposited in the state general fund. The remaining moneys received from the franchise tax shall be deposited in a franchise tax fund hereby established in the office of the treasurer of state, and shall be paid quarterly on warrants by the state comptroller, after certification by the director of revenue, as follows:

1. Sixty percent to the general fund of the city from which the tax is collected.
2. Forty percent to the county from which the tax is collected.

If the financial institution maintains one or more offices for the transaction of business, other than its principal office, a portion of its franchise tax shall be allocated to each office, based upon a reasonable measure of the business activity of each office. The director of revenue shall prescribe, for each type of financial institution, a method of measuring the business activity of each office. Financial institutions shall furnish all necessary information for this purpose at the request of the director.

Quarterly, the director of revenue shall certify to the treasurer of state the amounts to be paid to each city and county from the franchise tax fund. All moneys received from the franchise tax are hereby appropriated according to the provisions of this section.

(83 Acts, ch 123, § 173, 209) HF 628

Subsection 2 amended

422.72 Information deemed confidential.

1. It is unlawful for the director, or any person having an administrative duty under this chapter, or any present or former officer or other employee of the state authorized by the director to examine returns, to divulge in any manner whatever, the business affairs, operations, or information obtained by an investigation under this chapter of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy of a return or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. However, the director may authorize examination of such state returns and other state information which is confidential under this section, if a reciprocal arrangement exists, by tax officers of another state or the federal government. The director may, by rules adopted pursuant to chapter 17A, authorize examination of state information and returns by other officers or employees of this state to the extent required by their official duties and responsibilities. Disclosure of state information to tax officers of another state is limited to disclosures which have a tax administrative purpose and only to officers of those states which have laws that are as strict as the laws of this state protecting the confidentiality of returns and information. The director shall place upon the state tax form a notice to the taxpayer that state tax information may be disclosed to tax officials of another state or of the United States for tax administrative purposes. The department shall not authorize the examination of tax information by officers and employees of this state, another state, or of the United States if the officers or employees would otherwise be required to obtain a judicial order to examine the information if it were to be obtained from another source, and if the purpose of the examination is other than for tax administration. However, the

director of revenue may provide sample individual income tax information to be used for statistical purposes to the legislative fiscal bureau. The information shall not include the name or mailing address of the taxpayer or the taxpayer's social security number. Any information contained in an individual income tax return which is provided by the director shall only be used as a part of a data base which contains similar information from a number of returns. The legislative fiscal bureau shall not have access to the income tax returns of individuals. Each request for individual income tax information shall contain a statement by the director of the legislative fiscal bureau that the individual income tax information received by the bureau shall be used solely for statistical purposes. This subsection does not prevent the department from authorizing the examination of state returns and state information under the provisions of section 252B.9. This subsection prevails over any general law of this state relating to public records.

The director of revenue shall provide state tax returns and return information to the auditor of state, to the extent that the information is necessary to complete the annual audit of the department of revenue required by section 11.2. The state tax returns and return information provided by the director shall remain confidential and shall not be included in any public documents issued by the auditor of state.

2. Federal tax returns, copies of returns, and return information as defined in section 6103(b) of the Internal Revenue Code of 1954, which are required to be filed with the department for the enforcement of the income tax laws of this state, shall be deemed and held as confidential by the department and subject to the disclosure limitations in subsection 1 of this section.

3. Any person violating the provisions of subsections 1 and 2 of this section shall be guilty of a serious misdemeanor.

(83 Acts, ch 32, § 1, 2) SF 369

Effective April 28, 1983

Subsection 1 amended by adding NEW unnumbered paragraph 2

422.73 Correction of errors.

1. If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of division IV of this chapter or chapter 423, then such amount shall be credited against any tax due, or to become due, on the books of the department from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. A claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed became due, or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director.

A credit, action, or claim for refund of sales and use taxes voluntarily paid shall not be allowed to the extent that the credit, action, or claim for refund is based upon an alleged mistake of law regarding the validity or legality under the laws or Constitution of the United States or under the Constitution of the State of Iowa, of the tax imposed by division IV of this chapter or by chapter 423. This section prevails over any other statutes authorizing sales or use tax refunds or claims.

2. If it appears that an amount of tax, penalty, or interest has been paid which was not due under divisions II, III or V of this chapter, then that amount shall be credited against any tax due on the books of the department by the person who made the excessive payment, or that amount shall be refunded to the person or with the person's approval, credited to tax to become due. A claim for refund or credit that has not been filed with the department within three years after the return upon which a refund or credit claimed became due, or within one year after the payment of the tax upon which a refund or credit is claimed was made, whichever time is the later, shall not be allowed by the director. If, as a result of a carryback of a net operating loss or a net capital loss, the amount of tax in a prior period is reduced and an overpayment results, the claim for refund or credit of the overpayment shall

be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter between the taxpayer and the internal revenue service with respect to the particular tax year to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue in writing no later than six months after the expiration of the three-year limitations period of the existence of this income tax matter.

Notwithstanding the period of limitation specified, the taxpayer shall have until June 30, 1983, to file a refund claim for a tax paid on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code of 1954 to be separately taxed for federal income tax purposes for the tax year beginning on January 1, 1977 and ending December 31, 1977, and for the tax year beginning on January 1, 1979 and ending December 31, 1979. Interest shall not accrue during the extended period for refund claims authorized by this section.

(83 Acts, ch 155, § 1, 2, 3) SF 538

Effective May 27, 1983, retroactive to January 1, 1983 for claims filed on or after that date

Subsection 1 amended by adding NEW unnumbered paragraph 2

(83 Acts, ch 154, § 1, 2) SF 547

Effective May 27, 1983

Subsection 2 amended by adding NEW unnumbered paragraph 2

422.100 Allocation to moneys and credits replacement fund in each county. There is created a permanent fund in the office of the treasurer of state to be known as the "moneys and credits replacement fund". The director shall determine the percentage which the aggregate taxable value for the year 1965 of the property described in and subject to taxation under section 429.2, Code 1966, owned or held by individuals, administrators, executors, guardians, conservators, trustees or an agent or nominee thereof, and the aggregate taxable value for the year 1965 of the property described in and subject to taxation under section 431.1, Code 1966, for the year 1965 but not subject to taxation under that section for the year 1966, in each county bears to the total aggregate taxable value of such property reported from all of the counties in the state and shall certify the percentage for each county to the state comptroller prior to January 1, 1967. In July of each year, the state comptroller shall apply that percentage to the money in the moneys and credits tax replacement fund prior to that July and determine the amount due to each county. The state comptroller shall draw warrants on the moneys and credits tax replacement fund in such amounts payable to the county treasurer of each county and transmit them. The county treasurer shall apportion these amounts as follows: For the amounts received in January 1972, and all previously collected amounts, twenty percent to the county general fund, fifty percent to the school general fund, and the remaining thirty percent to cities and towns in the proportion that the taxable values for each city and town for 1965 of property subject to taxation in 1965 under sections 429.2, Code 1966, and 431.1, Code 1966, is to the total of such taxable values for all cities and towns within the county; for the amounts received in January 1973, and all subsequently collected amounts, forty percent to the county, and the remaining sixty percent to cities and towns in the proportion that the taxable values for each city and town for the year 1965 under sections 429.2 and 431.1, Code 1966, is to the total of such taxable values for all the cities and towns within the county.

Not later than December 31, 1973, the county auditor may file a certified statement with the state comptroller demonstrating errors made in calculating the aggregate taxable value for the year of 1965. The comptroller, upon verifying that an error was made, shall recalculate the amount payable to counties for the previous seven years, based upon the amounts which were available in the moneys and credits tax replacement fund in January of each year, and shall notify each county of its total overpayment or underpayment for the seven-year period. If a county has received an overpayment, it shall refund the overpayment to the comptroller for deposit in

the moneys and credits tax replacement fund. The refund of an overpayment shall be made not later than December 31, 1976. If a county has received an underpayment, the comptroller shall pay the amount of the underpayment to the county from the moneys and credits tax replacement fund, not later than January of 1977. The board of supervisors shall distribute thirty percent of the overpayment to cities and towns in the county in proportion to the corrected taxable values for each city and town for 1965.

(83 Acts, ch 123, § 174, 209) HF 628

Amended

CHAPTER 422A

HOTEL AND MOTEL TAX

422A.2 Local transient guest tax fund.

1. There is created in the office of the treasurer of state a local transient guest tax fund which shall consist of all moneys credited to such fund under section 422A.1.

2. All moneys in the local transient guest tax fund shall be remitted at least quarterly by the treasurer of state, pursuant to rules of the director of revenue, to each city in the amount collected from businesses in that city and to each county in the amount collected from businesses in the unincorporated areas of the county.

3. Moneys received by the city from this fund shall be credited to the general fund of the city, subject to the provisions of subsection 4.

4. The revenue derived from any hotel and motel tax authorized by this chapter shall be used as follows:

a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

b. The remaining revenues may be spent by the city or county which levies the tax for any city or county operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.

c. Any city or county which levies and collects the hotel and motel tax authorized by this chapter may pledge irrevocably an amount of the revenues derived therefrom for each of the years the bonds remain outstanding to the payment of bonds which the city or county may issue for one or more of the purposes set forth in paragraph "a" of this subsection. Any revenue pledged to the payment of such bonds may be credited to the spending requirement of paragraph "a" of this subsection.

d. The provisions of division III of chapter 384 relating to the issuance of essential corporate purpose bonds apply to the issuance by a city of bonds payable as provided in this section and the provisions of chapter 23 relating to the issuance of county bonds apply to the issuance by a county of bonds payable as provided in this section. The provisions of chapter 76 apply to the bonds payable as provided in this section except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged portion of the hotel and motel tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant

to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the city or county which levied the tax from the first available hotel and motel tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes.

The amount of bonds which may be issued under section 76.3 shall be the amount which could be retired from the actual collections of the hotel and motel tax for the last four calendar quarters, as certified by the director of revenue. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the hotel and motel tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be adjusted to project the collections for the full year for the purpose of determining the amount of the bonds which may be issued.

e. A city or county, jointly with one or more other cities or counties as provided in chapter 28E, may pledge irrevocably any amount derived from the revenues of the hotel and motel tax to the support or payment of bonds issued for a project within the purposes set forth in paragraph "a" of this subsection and located within one or more of the participatory cities or counties or may apply the proceeds of its bonds to the support of any such project. Revenue so pledged or applied shall be credited to the spending requirement of paragraph "a" of this subsection.

f. Bonds shall not be issued payable as provided in this section unless the issuance of the bonds has been authorized by an election, or the bonds are issued prior to November 1, 1984 payable from a hotel and motel tax which was authorized at an election held prior to July 1, 1979.

(83 Acts, ch 123, § 175, 209) HF 628

Subsection 3 amended

CHAPTER 423

USE TAX

423.1 Definitions. The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section:

1. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsection shall mean and include (a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, (b) fuel which is consumed in creating power, heat, or steam for processing or for generating electric current, or (c) chemicals, solvents, sorbents, or reagents, which are directly used and are consumed, dissipated, or depleted in processing personal property, which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides shall be deemed a retail sale for purposes of the processing exemption.

Notwithstanding the foregoing provisions of this subsection, the purchase of newsprint and ink delivered after April 1, 1970 to any person, firm or corporation to be incorporated in or used in the printing of any newspaper, free newspaper or shoppers guide for publication in this state shall be subject to the use tax imposed by this chapter.

2. "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

3. "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided:

a. That cash discounts taken on sales are not included.

b. That in transactions, except those subject to paragraph "c", in which tangible personal property is traded toward the purchase price of other tangible personal property the purchase price is only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:

(1) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and will be subject to the tax under section 422.43 or this chapter when sold or is intended to be used by the retailer or another in the remanufacturing of a like item.

c. That in transactions between persons, neither of which is a retailer of vehicles subject to registration, in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration, the purchase price is only that portion of the purchase price represented by the difference between the total purchase price of the vehicle subject to registration acquired and the amount of the vehicle subject to registration traded.

4. "*Tangible personal property*" means tangible goods, wares, merchandise, optional service or warranty contracts, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

5. "*Retailer*" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this chapter; provided, however, that when in the opinion of the director it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this chapter.

6. "*Retailer maintaining a place of business in this state*" or any like term, shall mean and include any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state pursuant to chapter 494.

7. "*Vehicles subject to registration*" means any vehicle subject to registration pursuant to section 321.18.

8. "*Person*" and "*taxpayer*" shall have the same meaning as defined in section 422.42.

9. "*Trailer*" shall mean every trailer, as is now or may be hereafter so defined by the motor vehicle law of this state, which is required to be registered or is subject only to the issuance of a certificate of title under such motor vehicle law.

10. Definitions contained in section 422.42 shall apply to the provisions of this chapter according to their context.

11. "*Street railways*" shall mean and include urban transportation systems.

12. "*Department*" and "*director*" shall have the same meaning as defined in section 422.3.

13. "*Certificate of title*" means a certificate of title issued for a vehicle under chapter 321.

(83 Acts, ch 158, § 2) SF 56

Subsection 3, paragraph b, subparagraph (2) amended.

423.2 Imposition of tax. An excise tax is imposed on the use in this state of tangible personal property purchased for use in this state, at the rate of four percent of the purchase price of the property. The excise tax is imposed upon every person using the property within this state until the tax has been paid directly to the county treasurer or the state department of transportation, to a retailer, or to the department. An excise tax is imposed on the use in this state of services enumerated in section 422.43 at the rate of four percent. This tax is applicable where services are rendered, furnished, or performed in this state or where the product or result of the service is used in this state. This tax is imposed on every person using the services or the product of the services in this state until the user has paid the tax either to an Iowa use tax permit holder or to the department of revenue.

(83 Acts, ch 1, § 5, 6) SF 184

Effective March 1, 1983

Amended

423.18 Offenses — penalties — limitations.

1. If a person fails to file a monthly deposit form or a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly deposit form or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly deposit form or return and failure to pay at least ninety percent of the tax due or required on the monthly deposit form or return, the penalty for failure to file is in lieu of the penalty for failure to pay at least ninety percent of the tax due or required on the monthly deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this chapter.

2. A person who willfully attempts in any manner to evade a tax imposed by this chapter or the payment of ninety percent of the tax, or a person who makes or causes to be made any false or fraudulent monthly deposit form or return with intent to evade the tax imposed by this chapter or the payment of ninety percent of the tax is guilty of a class "D" felony.

3. A person required to pay tax, or to make, sign or file a monthly deposit form or return, who willfully makes a false or fraudulent monthly deposit form or return, or who willfully fails at the time required by law to pay the tax or fails to make, sign or file the monthly deposit form or return, is guilty of a fraudulent practice.

4. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense, unless that person is a nonresident of this state or the residence of that person cannot be established, in which event the situs of the offense is in Polk county.

5. A prosecution for an offense specified in this section shall be commenced within six years after its commission.

(83 Acts, ch 160, § 8) HF 626
Subsections 2 and 3 amended

423.24 Deposit of revenue.

Exception for amounts transferred to state department of transportation for public transit assistance and to the special railroad facility fund: 83 Acts, ch 198, § 31, 32

423.26 Penalty for false statement. A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a fraudulent practice.

(83 Acts, ch 160, § 9) HF 626
Amended

CHAPTER 425

HOMESTEAD TAX CREDIT

425.1 Ratio and manner of distribution.

1. There is hereby appropriated annually from the general fund of the state to the department of revenue to be credited to the homestead credit fund, which fund is hereby created, an amount sufficient to carry out the provisions of this chapter.

The director of revenue shall requisition the state comptroller to issue his warrants on the homestead credit fund payable to the county treasurers of the several counties of the state under the provisions of this chapter.

2. The homestead credit fund shall be apportioned each year so as to give a credit against the tax on each eligible homestead in the state in an amount equal to the actual levy on the first four thousand eight hundred fifty dollars of actual value for each homestead.

3. The amount due each county shall be paid by the state comptroller upon requisition of the director of revenue in two payments on November 15 and March 15 of each fiscal year, drawn upon warrants payable to the respective county treasurers. The two payments shall be as nearly equal as possible.

4. Annually the department of revenue shall estimate the credit not to exceed the actual levy on the first four thousand eight hundred fifty dollars of actual value of each eligible homestead, and shall certify to the county auditor of each county the credit and its amount in dollars. Each county auditor shall then enter the credit against the tax levied on each eligible homestead in each county payable during the ensuing year, designating on the tax lists the credit as being from the homestead credit fund, and credit shall then be given to the several taxing districts in which eligible homesteads are located in an amount equal to the credits allowed on the taxes of the homesteads. The amount of credits shall be apportioned by each county treasurer to the several taxing districts as provided by law, in the same manner as though the amount of the credit had been paid by the owners of the homesteads. However, the several taxing districts shall not draw the funds so credited until after the semiannual allocations have been received by the county treasurer, as provided in this chapter. Each county treasurer shall show on each tax receipt the amount of credit received from the homestead credit fund.

5. If the homestead tax credit computed under this section is less than sixty-two dollars and fifty cents, the amount of homestead tax credit on that eligible homestead shall be sixty-two dollars and fifty cents subject to the limitation imposed in this section.

6. The homestead tax credit allowed in this chapter shall not exceed the actual amount of taxes payable on the eligible homestead, exclusive of any special assessments levied against the homestead.

(83 Acts, ch 172, § 3) SF 540

Subsection 3 struck and rewritten

425.2 Qualifying for credit. A person who wishes to qualify for the credit allowed under this chapter, shall obtain the appropriate forms for filing for the credit from the assessor. The person claiming the credit shall file a verified statement and designation of homestead with the assessor for the year for which the person is first claiming the credit. The claim shall be filed not later than July 1 of the year for which the person is claiming the credit.

Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. An owner who ceases to use a property for a homestead shall provide written notice to the assessor by July 1 following the date on which the use is changed. A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

In case the owner of the homestead is in active service in the armed forces of this state or of the United States, or is sixty-five years of age or older, or is disabled, the statement and designation may be signed and delivered by any member of the owner's family, by the owner's guardian or conservator, or by any other person who may represent the owner under power of attorney. If the owner of the homestead is married, the spouse may sign and deliver the statement and designation. The commissioner of human services or the commissioner's designee may make application for the benefits of this chapter as the agent for and on behalf of persons receiving assistance under chapter 249.

Any person sixty-five years of age or older or any person who is disabled may request, in writing, from the appropriate assessor forms for filing for homestead tax credit. Any person sixty-five years of age or older or who is disabled may complete the form, which shall include a statement of homestead, and mail or return it to the appropriate assessor. The signature of the claimant on the statement shall be considered the claimant's acknowledgment that all statements and facts entered on the form are correct to the best of the claimant's knowledge.

Upon adoption of a resolution by the county board of supervisors, any person may request, in writing, from the appropriate assessor forms for the filing for homestead tax credit. The person may complete the form, which shall include a statement of homestead, and mail or return it to the appropriate assessor. The signature of the claimant on the statement of homestead shall be considered the claimant's acknowledgment that all statements and facts entered on the form are correct to the best of the claimant's knowledge.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 3 amended

425.18 Right to file a claim. The right to file a claim for reimbursement or credit under this division may be exercised by the claimant or on behalf of a claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate. If a claimant dies after having filed a claim for reimbursement for rent constituting property taxes paid, the amount of the reimbursement may be paid to another member of the household as determined by the director. If the claimant was the only member of the household, the reimbursement may be paid to the claimant's executor or administrator, but if neither is appointed

and qualified within one year from the date of the filing of the claim, the reimbursement shall escheat to the state. If a claimant dies after having filed a claim for credit for property taxes due, the amount of credit shall be paid as if the claimant had not died.

(83 Acts, ch 111, § 1, 4) HF 525

Effective January 1, 1984

Amended

425.19 Claim and credit or reimbursement. Subject to the limitations provided in this division, a claimant may annually claim a credit for property taxes due during the fiscal year next following the base year or claim a reimbursement for rent constituting property taxes paid in the base year. The amount of the credit for property taxes due for a homestead shall be paid on February 15 of each year by the director to the county treasurer who shall credit the money received against the amount of the property taxes due and payable on the homestead of the claimant and the amount of the reimbursement for rent constituting property taxes paid shall be paid to the claimant from the state general fund on December 31 of each year.

(83 Acts, ch 172, § 4) SF 540

Amended

425.20 Filing date. A claim for reimbursement for rent constituting property taxes paid shall not be paid or allowed, unless the claim is actually filed with and in the possession of the department of revenue on or before October 31 of the year following the base year.

A claim for credit for property taxes due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and July 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the homestead for six months or more during the fiscal year beginning in the calendar year in which the claim is filed. The county treasurer shall submit the claim to the director of revenue on or before August 1 of each year.

In case of sickness, absence, or other disability of the claimant or if, in the judgment of the director of revenue, good cause exists and the claimant requests an extension, the director may extend the time for filing a claim for reimbursement or credit. However, any further time granted shall not extend beyond December 31 of the year following the year in which the claim was required to be filed. Claims filed as a result of this paragraph shall be filed with the director who shall provide for the reimbursement of the claim to the claimant.

(83 Acts, ch 111, § 2, 4) HF 525

Effective January 1, 1984

Unnumbered paragraph 2 amended

425.23 Schedule for claims for credit or reimbursement. The amount of any claim for credit or reimbursement filed under this division shall be determined as provided in this section.

1. The tentative credit or reimbursement shall be determined in accordance with the following schedule:

| If the household income is: | Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement: |
|--------------------------------|---|
| \$ 0 - 4,999.99 | 100% |
| 5,000 - 5,999.99 | 70 |
| 6,000 - 6,999.99 | 50 |
| 7,000 - 7,999.99 | 40 |
| 8,000 - 8,999.99 | 30 |
| 9,000 - 11,999.99 | 25 |

2. The actual credit for property taxes due shall be determined by subtracting from the tentative credit the amount of the homestead credit under section 425.1 which is allowed as a credit against property taxes due in the fiscal year next following the base year by the claimant or any person of the claimant's household. If the subtraction produces a negative amount, there shall be no credit but no refund shall be required. The actual reimbursement for rent constituting property taxes paid shall be equal to the tentative reimbursement.

3. a. Any person who is eligible to file a claim for credit for property taxes due and who has a household income of five thousand dollars or less and who has a special assessment levied against the homestead may file a claim with the county treasurer that the claimant had a household income of five thousand dollars or less and that a special assessment is presently levied against the homestead. The department shall provide to the respective county treasurers such forms as are necessary for the administration of this subsection. The claim shall be filed not later than September 30 of each year. Upon the filing of the claim, no penalty or interest for late payment shall accrue against the amount of the special assessment due and payable. The claim filed by the claimant shall constitute a claim for credit of an amount equal to the actual amount due and payable upon the special assessment payable during the fiscal year against the homestead of the claimant or an amount equal to the annual payment of the special assessment levied against the homestead of the claimant and payable in annual installments through the period of years provided by the governing body of the city, whichever is less. The department of revenue shall, upon the filing of the claim with the department by the county treasurer, pay that amount of the special assessment during the current fiscal year to the county treasurer. The county treasurer shall submit the claims to the director of revenue not later than October 15 of each year. The director of revenue shall certify to the state comptroller the amount of reimbursement due each county for special assessment credits allowed under this subsection. The amount of reimbursement due each county shall be paid by the state comptroller on October 20 of each year, drawn upon warrants payable to the respective county treasurer. There is appropriated annually from the general fund of the state to the department of revenue an amount sufficient to carry out the provisions of this subsection. The county treasurer shall credit any moneys received from the department against the amount of the special assessment due and payable on the homestead of the claimant.

b. For purposes of this subsection, a totally disabled person in computing household income shall deduct all medical and necessary care expenses paid during the twelve-month income tax accounting periods used in computing household income which are attributable to the person's total disability. "Medical and necessary care expenses" are those used in computing the federal income tax deduction under section 213 of the Internal Revenue Code of 1954 as defined in section 422.4.

(83 Acts, ch 189, § 3, 5, 6) HF 241

Effective June 21, 1983, retroactive to January 1, 1983, for claims filed on or after that date for taxes payable in the fiscal year beginning July 1, 1983 and for subsequent years, and applicable to rent reimbursement claims filed on or after January 1, 1984, for rents paid in calendar year 1983

Subsection 1 amended and paragraph b struck

(83 Acts, ch 172, § 5) SF 540

Subsection 3, paragraph a amended

425.26 Proof of claim. Every claimant shall give the department of revenue, in support of his claim reasonable proof of:

1. Age and total disability, if any;
2. Property taxes due or rent constituting property taxes paid, including the portion of gross rent paid for providing utilities, services, furniture, furnishings, and personal property appliances, and the name and address of the owner or manager of the property rented and a statement whether the claimant is related by blood, marriage or adoption to the owner or manager of the property rented;
3. Homestead credit allowed against property taxes due;
4. Changes of homestead;
5. Household membership;
6. Household income;
7. Size and nature of property claimed as the homestead; and
8. A statement that the property taxes due and used for purposes of this division have been or will be paid by the claimant, unless the claim is filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney or by the executor or administrator of the claimant's estate, and that there are no delinquent property taxes on the homestead.

9. Any information needed to determine whether the claimant is eligible for the alternative credit under section 425.23, subsection 1, paragraph "b".

The director may require any additional proof necessary to support a claim.

(83 Acts, ch 111, § 3; 4) HF 525

Effective January 1, 1984

Subsection 8 amended

425.29 False claim — penalty. A person who makes a false affidavit for the purpose of obtaining credit or reimbursement provided for in this division or who knowingly receives the credit or reimbursement without being legally entitled to it or makes claim for the credit or reimbursement in more than one county in the state without being legally entitled to it is guilty of a fraudulent practice. Prosecution under this section shall be brought in the county of residence of the person to be charged. The claim for credit or reimbursement shall be disallowed in full and if the claim has been paid the amount shall be recovered in the manner provided in section 425.27. The director of revenue shall send a notice of disallowance of the claim.

(83 Acts, ch 160, § 10) HF 626

Amended

CHAPTER 426

AGRICULTURAL LAND TAX CREDIT

426.7 Warrants drawn by comptroller. After receiving from the county auditors the certifications provided for in section 426.6, and during the following fiscal year, the state comptroller shall draw warrants on the agricultural land credits fund created in section 426.1, payable to the county treasurers in the amount certified by the county auditors of the respective counties and mail the warrants to the county auditors on August 15 of each year taking into consideration the relative budget and cash position of the state resources. However, if the agricultural land credits fund is insufficient to pay in full the total of the amounts certified to the state comptroller, the state comptroller shall prorate the fund to the county treasurers and notify the county auditors of the pro rata percentage on or before August 1.

(83 Acts, ch 172, § 6) SF 540

Amended

CHAPTER 426A

MILITARY SERVICE TAX CREDIT

426A.4 Certification by director of revenue. Sums distributable from the military service tax credit fund shall be allocated annually to the counties of the state. On September 15 annually the director of revenue shall certify to the comptroller the total credits claimed by each county. Upon receipt of the certification from the director of revenue, the comptroller shall draw warrants to the treasurer of each county payable from the military service tax credit fund in the amount claimed. However, if the amount of money in the fund is insufficient to pay the credits claimed in full, the claims shall be paid on a pro rata basis. Payments shall be made to the treasurer of each county not later than September 30 of each year. The state comptroller shall transfer any funds in the military service tax credit fund on May 31 of each year not necessary for the payment of claims to the general fund.

(83 Acts, ch 172, § 7) SF 540

Amended

CHAPTER 427

PROPERTY EXEMPT AND TAXABLE

427.1 Exemptions. The following classes of property shall not be taxed:

1. *Federal and state property.* The property of the United States and this state, including state university, university of science and technology, and school lands. The exemption herein provided shall not include any real property subject to taxation under any federal statute applicable thereto, but such exemption shall extend to and include all machinery and equipment owned exclusively by the United States or any corporate agency or instrumentality thereof without regard to the manner of the affixation of such machinery and equipment to the land or building upon or in which such property is located, until such time as the Congress of the United States shall expressly authorize the taxation of such machinery and equipment.

2. *Municipal and military property.* The property of a county, township, city, school corporation, levee district, drainage district or military company of the state of Iowa, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F which shall be subject to assessment and taxation under provisions of chapters 428 and 437. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

3. *Public grounds and cemeteries.* Public grounds, including all places for the burial of the dead; and crematoriums with the land, not exceeding one acre, on which they are built and appurtenant thereto, so long as no dividends or profits are derived therefrom.

4. *Fire equipment and grounds.* Fire engines and all implements for extinguishing fires, and the publicly owned buildings and grounds used exclusively for keeping them and for meetings of fire companies.

5. *Public securities.* Bonds or certificates issued by any municipality, school

district, drainage or levee district, river-front improvement commission or county within the state of Iowa. No deduction from the assessment of the shares of stock of any bank or trust company shall be permitted because such bank or trust company holds such bonds as are exempted above.

6. *Property of associations of war veterans.* The property of any organization composed wholly of veterans of any war, when such property is devoted entirely to its own use and not held for pecuniary profit.

7. *Property of cemetery associations.* Burial grounds, mausoleums, buildings and equipment owned and operated by cemetery associations and used exclusively for the maintenance and care of the cemeteries devoted to interment of human bodies and human remains. The exemption granted by this subsection shall not apply to any property used for the practice of mortuary science.

8. *Libraries and art galleries.* All grounds and buildings used for public libraries, public art galleries, and libraries and art galleries owned and kept by private individuals, associations, or corporations, for public use and not for private profit.

9. *Property of religious, literary, and charitable societies.* All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects, not exceeding three hundred twenty acres in extent and not leased or otherwise used or under construction with a view to pecuniary profit. However, an organization mentioned in this subsection whose primary objective is to preserve land in its natural state may own or lease land not exceeding three hundred twenty acres in each county for its appropriate objects. All deeds or leases by which such property is held shall be filed for record before the property herein described shall be omitted from the assessment. All such property shall be listed upon the tax rolls of the district or districts in which it is located and shall have ascribed to it an actual fair market value and an assessed or taxable value, as contemplated by section 441.21, whether such property be subject to a levy or be exempted as herein provided and such information shall be open to public inspection.

10. *Personal property of institutions and students.* Moneys and credits belonging exclusively to the institutions named in subsections 7, 8, and 9 and devoted solely to sustaining them, but not exceeding in amount or income the amount prescribed by their charters or articles of incorporation; and the books, papers, pictures, works of art, apparatus, and other personal property belonging to such institutions and used solely for the purposes contemplated in said subsections and the like property of students in such institutions used for their education.

11. *Property of educational institutions.* Real estate owned by any educational institution of this state as a part of its endowment fund, to the extent of one hundred sixty acres in any civil township except any real property acquired after January 1, 1965, by any educational institution as a part of its endowment fund or upon which any income is derived or used, directly or indirectly, for full or partial payment for services rendered, shall be taxed beginning with the levies applied for taxes payable in the year 1967, at the same rate as all other property of the same class in the taxing district in which the real property is located. The property acquired prior to January 1, 1965, and held or owned as part of the endowment fund of an educational institution shall be subject to assessment and levy in the assessment year 1974 for taxes payable in 1975. All the property shall be listed on the assessment rolls in the district in which the property is located and an actual fair market value and an assessed or taxable value be ascribed to it, as contemplated by section 441.21, irrespective of whether an exemption under this subsection may be or is affirmed, and the information shall be open to public inspection; it being the intent of this section that the property be valued whether or not it be subject to a levy. Every educational institution claiming an exemption under this subsection shall file with the assessor not later than February 1 of the year for which the exemption is requested, a statement upon forms to be prescribed by the director of revenue,

describing and locating the property upon which exemption is claimed. Property which is located on the campus grounds and used for student union purposes may serve food and beverages without affecting its exemption received pursuant to subsection 9 or this subsection.

12. *Homes for soldiers.* The buildings, grounds, furniture, and household equipment of homes owned and operated by organizations of soldiers, sailors, or marines of any of the wars of the United States when used for a home for disabled soldiers, sailors, or marines and not operated for pecuniary profit.

13. *Agricultural produce.* Growing agricultural and horticultural crops and products, except commercial orchards and vineyards, and all horticultural and agricultural produce harvested by or for the person assessed within one year previous to the listing, all wool shorn from his sheep within such time, all poultry, ten stands of bees, honey and beeswax produced during that time and remaining in the possession of the producer, and all livestock.

14. *Rent.* Obligations for rent not yet due and owned by the original payee.

15. *Family equipment.* All tangible personal property customarily located and used in or about the residence or residences of the owner of said property; all wearing apparel and food used or to be used by the owner or his family; and all personal effects.

16. *Farm equipment — drays — tools.* The farming utensils of any person who makes his livelihood by farming, the team, wagon, and harness of the teamster or drayman who makes his living by their use in hauling for others, and the tools of any mechanic, not in any case to exceed one thousand one hundred eleven dollars in taxable value.

17. *Government lands.* Government lands entered and located, or lands purchased from this state, for the year in which the entry, location, or purchase is made.

18. *Fraternal beneficiary funds.* The accumulations and funds held or possessed by fraternal beneficiary associations for the purposes of paying the benefits contemplated by section 512.2, or for the payment of the expenses of such associations.

19. *Capital stock of companies.* The shares of capital stock of telegraph and telephone companies, freight-line and equipment companies, transmission line companies as defined in section 437.1, express companies, corporations engaged in merchandising as defined in section 428.16, domestic corporations engaged in manufacturing as defined in section 428.20, and manufacturing corporations organized under the laws of other states having their main operating offices and principal factories in the state of Iowa, and corporations not organized for pecuniary profit.

20. *Public airports.* Any lands, the use of which (without charge by or compensation to the holder of the legal title thereto) has been granted to and accepted by the state or any political subdivision thereof for airport or aircraft landing area purposes.

21. *Grain.* Grain handled, as defined under section 428.35.

22. *Pension and welfare plans.* All intangible property held pursuant to any pension, profit sharing, unemployment compensation, stock bonus or other retirement, deferred benefit or employee welfare plan the income from which is exempt from taxation under divisions II and III of chapter 422.

23. *Statement of objects and uses filed.* A society or organization claiming an exemption under subsection 6 or subsection 9 of this section shall file with the assessor not later than February 1 a statement upon forms to be prescribed by director of revenue, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the property derived from the rentals, leases or other uses of the property not solely for the appropriate objects of the society or organization. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original claim for exemption. When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property

transferred and the name of the person to whom title to the property is transferred. The assessor, in arriving at the valuation of any property of the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased or rented and is used regularly for commercial purposes for a profit to a party or individual. If a portion of the property is used regularly for commercial purposes an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property. An exemption shall not be granted upon property upon or in which persistent violations of the laws of the state are permitted. A claimant of an exemption shall, under oath, declare that no violations of law will be knowingly permitted or have been permitted on or after January 1 of the year in which a tax exemption is requested. Claims for exemption shall be verified under oath by the president or other responsible head of the organization. A society or organization which ceases to use the property for the purposes stated in the claim shall provide written notice to the assessor of the change in use.

24. *Delayed claims.* In any case where no such claim for exemption has been made to the assessor prior to the time his books are completed, such claims may be filed with the local board of review or with the county auditor not later than July 1 of the year for which such exemption from taxation is claimed, and a proper assessment shall be made either by the board of review or by the county auditor, if said property is all or in part subject to taxation.

25. *Mandatory denial.* No exemption shall be granted upon any property which is the location of federally licensed devices not lawfully permitted to operate under the laws of the state.

26. *Revoking exemption.* Any taxpayer or any taxing district may make application to the director of revenue for revocation for any exemption, based upon alleged violations of the provisions of this chapter. The director of revenue may also on his own motion set aside any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue shall give notice by certified mail to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue, and any order made by the director of revenue revoking or modifying such exemption shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which such property is located, and must be filed within thirty days after any order revoking such exemption is made by the director of revenue.

27. *Tax provisions for armed forces.* If any person enters any branch of the armed service of the United States in time of national emergency, all personal property used in making his livelihood, in excess of three hundred dollars in value, of such person shall be assessed but no tax shall be due if such person upon return from service, or in event of his death if his executor, administrator or next of kin, executes an affidavit to the county assessor that such property was not used in any manner during his absence, the tax as assessed thereon shall be waived and no payment shall be required.

28. *Goods stored by warehouseman.* All personal property intended for ultimate sale or resale, with or without additional processing, manufacturing, fabricating, compounding or servicing, stored in a warehouse of any person, copartnership or corporation engaged in the business of storing goods for profit as defined in section 554.7201 et seq., provided such personal property is not offered for sale or sold by the owner at retail directly from the public warehouse.

29. *Personal property.* All personal property in transit.

30. *Rural water sales.* The real and personal property of a nonprofit corporation

engaged in the distribution and sale of water to rural areas when devoted to public use and not held for pecuniary profit.

31. *Assessed value of exempt property.* Each county and city assessor shall determine the assessment value that would be assigned to the property if it were taxable and value all tax exempt property within the assessor's jurisdiction. A summary report of tax exempt property shall be filed with the director of revenue and the local board of review on or before April 16 of each year on forms prescribed by the director of revenue.

32. *Pollution control.* Pollution-control property as defined in this subsection shall be exempt from taxation for the periods and to the extent provided in this subsection, upon compliance with the provisions of this subsection.

This exemption shall apply to new installations of pollution-control property for a period of ten years beginning on January 1 after the construction or installation of the property is completed. This exemption shall apply for a period of ten years beginning on January 1, 1975, to existing pollution-control property if its construction or installation was completed after September 23, 1970. This exemption shall apply with respect to each of the ten annual assessments within the ten-year exemption period and the property taxes payable on the basis of each of such ten annual assessments. This exemption for existing pollution-control property shall begin with respect to the assessment as of January 1, 1975, and the taxes payable on the basis of this assessment during the fiscal year beginning July 1, 1976.

This exemption shall be limited to the market value, as defined in section 441.21, of the pollution-control property. If the pollution-control property is assessed with other property as a unit, this exemption shall be limited to the net market value added by the pollution-control property, determined as of the assessment date.

Application for this exemption shall be filed with the assessing authority not later than the first of February of the first year for which the exemption is requested, on forms provided by the department of revenue. The application shall describe and locate the specific pollution-control property to be exempted.

The application for a specific pollution-control property shall be accompanied by a certificate of the executive director of the department of water, air and waste management certifying that the primary use of the pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state.

A taxpayer may seek judicial review of a determination of the executive director or, on appeal, of the water, air and waste management commission in accordance with the provisions of chapter 17A.

The water, air and waste management commission of the department of water, air and waste management shall adopt rules relating to certification under this subsection and information to be submitted for evaluating pollution-control property for which a certificate is requested. The revenue department shall adopt any rules necessary to implement this subsection, including rules on identification and valuation of pollution-control property. All rules adopted shall be subject to the provisions of chapter 17A.

For the purposes of this subsection "pollution-control property" means personal property or improvements to real property, or any portion thereof, used primarily to control or abate pollution of any air or water of this state or used primarily to enhance the quality of any air or water of this state. In the event such property shall also serve other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution or to the enhancement of the quality of the air or water of this state shall be exempt from taxation under this subsection.

For the purposes of this subsection "pollution" means air pollution as defined in section 455B.131 or water pollution as defined in section 455B.171. "Water of the

state" means the water of the state as defined in section 455B.171. "Enhance the quality" means to diminish the level of pollutants below the air or water quality standards established by the water, air and waste management commission of the department of water, air and waste management.

33. *Impoundment structures.* The impoundment structure and any land underlying an impoundment located outside any incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil conservation district commissioners of the county in which the impoundment structure and the impoundment are located. Any person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year before the first of July for the exemption. The application shall be made on forms prescribed by the department of revenue. The first application shall be accompanied by a copy of the water storage permit approved by the department of water, air and waste management and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil conservation district commissioners, to the board of supervisors for approval or denial. Any applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means any reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in such area; and "impoundment structure" means any dam, earthfill or other structure used to create an impoundment.

34. *Low-rent housing.* The property owned and operated by a nonprofit organization providing low-rent housing for the elderly and the physically and mentally handicapped. The exemption granted under the provisions of this subsection shall apply only until the terms of the original low-rent housing development mortgage is paid in full or expires, subject to the provisions of subsections 23 and 24.

35. Coal which is held in inventory to be used for methane gas production or other purposes by a person, corporation, partnership, or other business entity, except coal held in inventory which is owned by a person, corporation, partnership, or other business entity whose property is assessed by the department of revenue pursuant to sections 428.24 to 428.29 or chapters 433 to 438.

36. *Natural conservation or wildlife areas.* Wetlands, recreational lakes, forest covers, forest reservations, rivers and streams, river and stream banks, and open prairies as designated by the board of supervisors of the county in which located. The board of supervisors shall annually designate the real property, not to exceed in the aggregate for the fiscal year beginning July 1, 1983 the greater of one percent of the acres assessed as agricultural land or three thousand acres in each county, for which this exemption shall apply. For subsequent fiscal years, the limitation on the maximum acreage of real property that may be granted exemptions shall be the limitation for the previous fiscal year, unless the amount of acreage granted exemptions for the previous fiscal year equaled the limitation for that year, then the limitation for the subsequent fiscal year is the limitation for the previous fiscal year plus an increase, not to exceed three hundred acres, of ten percent of that limitation. However, the board of supervisors shall grant a tax exemption to a tract of land if it fulfills the conditions of sections 161.1 to 161.13 for a forest reservation. The acreage granted this exemption for a forest reservation shall not be included within the limitation for the fiscal year for which the exemption is granted. The procedures of this subsection shall be followed for each assessment year to procure an exemption

for the fiscal year beginning in the assessment year. The exemption shall be only for the fiscal year for which it is granted, except that an exemption granted for wetlands shall be for three fiscal years. A parcel of property may be granted subsequent exemptions. The exemption shall only be granted for parcels of property of two acres or more.

Application for this exemption shall be filed with the commissioners of the soil conservation district in which the property is located, or if not located in a district, to the board of supervisors, not later than April 15 of the assessment year, on forms provided by the department of revenue. However, in the case of an exemption granted for wetlands an application does not have to be filed for the second and third years of the three-year exemption period. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon receipt of the application, the commissioners or the board of supervisors, if the property is not located in a soil conservation district, shall certify whether the property is eligible to receive the exemption. The commissioners or board shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property if other than a forest reservation will not be used for economic gain during the assessment year in which the exemption is granted.

Before the board of supervisors may designate real property for the exemption, it shall establish priorities for the types of real property for which an exemption may be granted and the amount of acreage. These priorities may be the same as or different than those for previous years. The board of supervisors shall get the approval of the governing body of the city before an exemption may be granted to real property located within the corporate limits of that city. A public hearing shall be held with notice given as provided in section 23.2 at which the proposed priority list shall be presented. After the public hearing, the board of supervisors shall adopt by resolution the proposed priority list or another priority list. Property upon which are located abandoned buildings or structures shall have the lowest priority on the list adopted, except where the board of supervisors determines that a structure has historic significance. The board of supervisors shall also provide for a procedure where the amount of acres for which exemptions are sought exceeds the amount the priority list provides for that type or in the aggregate for all types.

After receipt of an application with its accompanying certification and affidavit and the establishment of the priority list, the board of supervisors may grant a tax exemption under this subsection using the established priority list as a mandate. Real property designated for the tax exemption shall be designated by May 15 of the assessment year in which begins the fiscal year for which the exemption is granted. Notification shall be sent to the county auditor and the applicant.

The board of supervisors, except as required for forest reservations, does not have to grant tax exemptions under this subsection, grant tax exemptions in the aggregate of the maximum acreage which may be granted exemptions, or grant a tax exemption for the total acreage for which the applicant requested the exemption. Only real property in parcels of two acres or more which is wetlands, recreational lakes, forest cover, forest reservations, river and stream, river and stream banks or open prairie and which is utilized for the purposes of providing soil erosion control or wildlife habitat or both, and which is subject to property tax for the fiscal year for which the tax exemption is requested is eligible for the exemption under this subsection.

However, in addition to the above, in order for a gully area which is susceptible to severe erosion to be eligible, there must be an erosion control plan for it approved by the commissioners of the soil conservation district in which it is located or the state soil conservation committee if not located in a district. In the case of an exemption for river and stream or river and stream banks, the exemption shall not be granted unless there is included in the exemption land located at least thirty-three feet from the ordinary high water mark of the river and stream or river and stream banks. Property shall not be denied an exemption because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the real property is located within a city, the approval of the governing body must be obtained before the real property may be eligible for an exemption. For purposes of this subsection:

a. "*Wetlands*" means land preserved in its natural condition which is mostly under water, which produces little economic gain, which has no practical use except for wildlife or water conservation purposes, and the drainage of which would be lawful, feasible and practical and would provide land suitable for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains. "*Wetlands*" includes adjacent land which is not suitable for agricultural purposes due to the presence of the land which is under water.

b. "*Open prairies*" includes hillsides and gully areas which have a permanent grass cover but does not include native prairies meeting the criteria of the state conservation commission.

c. "*Forest cover*" means land which is predominantly wooded.

d. "*Recreational lake*" means a body of water, which is not a river or stream, owned solely by a nonprofit organization and primarily used for boating, fishing, swimming and other recreational purposes.

e. "*Forest reservation*" means land fulfilling the conditions of sections 161.1 to 161.13 except land located within the corporate limits of a city which is not open to public use.

f. "*Used for economic gain*" includes, but is not limited to, using property for the storage of equipment, machinery, or crops.

37. *Native prairie.* Land designated as native prairie by a county conservation board or by the state conservation commission in an area not served by a county conservation board. Application for the exemption shall be made on forms provided by the department of revenue. The application forms shall be filed with the assessing authority not later than the first of February of the year for which the exemption is requested. The application must be accompanied by an affidavit signed by the applicant that if the exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted. If the property is used for economic gain during the assessment year in which the exemption is granted, the property shall lose its tax exemption and shall be taxed at the rate levied by the county for the fiscal year beginning in that assessment year. The first annual application shall be accompanied by a certificate from the county conservation board serving the area in which the property is located or if none exists, the state conservation commission stating that the land is native prairie. The county conservation board or the state conservation commission shall issue the certificate if the board or commission finds that the land has never been cultivated, is unimproved, is primarily a mixture of warm season grasses interspersed with flowering plants, and meets the other criteria established by the state conservation commission for native prairie. A taxpayer may seek judicial review of a decision of a board or the commission according to chapter 17A. The state conservation commission shall adopt rules to implement this subsection.

38. *Land certified as a wildlife habitat.* The owner of agricultural land may designate not more than two acres of the land for use as a wildlife habitat. After inspection, if the land meets the standards established by the commission for a

wildlife habitat under section 110.3, the state conservation commission shall certify the designated land as a wildlife habitat and shall send a copy of the certification to the appropriate assessor. The commission may subsequently withdraw certification of the designated land if it fails to meet the established standards for a wildlife habitat and the assessor shall be given written notice of the decertification.

39. Railroad right-of-way and improvements on the right-of-way only during that period of time that the Iowa railway finance authority holds an option to purchase the right-of-way under section 307B.24.

(83 Acts, ch 178, § 1) HF 640

Subsection 23 amended

(83 Acts, ch 133, § 1, 2) HF 574

A person claiming the exemption under subsection 32 on July 1, 1983, whose eligibility does not terminate on December 31, 1983, must apply for the following year but not thereafter

A rule adopted, permit or order issued, or approval given by the environmental quality commission or the executive director of the department of environmental quality under subsection 32 before July 1, 1983, and in force just prior to July 1, 1983, remains effective until modified or rescinded by action of the water, air and waste management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to 82 Acts, ch 1199; 83 Acts, ch 137, § 29

Subsection 32, unnumbered paragraphs 4 and 5 amended

(83 Acts, ch 121, § 8) SF 499

NEW subsection 39

427.3 Military service — exemptions. The following exemptions from taxation shall be allowed:

1. The property, not to exceed eleven thousand one hundred eleven dollars in taxable value, and poll tax of any honorably discharged union soldier, sailor, or marine of the Mexican war or the war of the rebellion.

2. The property, not to exceed six thousand six hundred sixty-seven dollars in taxable value, and poll tax of any honorably discharged soldier, sailor, marine or nurse of the war with Spain, Tyler Rangers, Colorado volunteers in the war of the rebellion, 1861 to 1865, Indian wars, Chinese relief expedition or the Philippine insurrection.

3. The property, not to exceed two thousand seven hundred seventy-eight dollars in taxable value of any honorably discharged soldier, sailor, marine, or nurse of the first World War.

4. The property, not to exceed one thousand eight hundred fifty-two dollars in taxable value of an honorably separated, retired, furloughed to a reserve, placed on inactive status, or discharged soldier, sailor, marine, or nurse of the second World War from December 7, 1941, to December 31, 1946, army of occupation in Germany from November 12, 1918, to July 11, 1923, American expeditionary forces in Siberia from November 12, 1918, to April 30, 1920, second Nicaraguan campaign with the navy or marines in Nicaragua or on combatant ships 1926-1933, second Haitian suppression of insurrections 1919-1920, navy and marine operations in China 1937-1939 and Yangtze service with navy and marines in Shanghai or in the Yangtze Valley 1926-1927 and 1930-1932 or of the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, or those who served on active duty during the Vietnam Conflict beginning December 22, 1961, and ending May 7, 1975, both dates inclusive. For the purposes of this section, "active duty" means full-time duty in the armed forces of the United States, excluding active duty for training purposes only and excluding any period a person was assigned by the armed forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman, however enrolled, at one of the service academies.

5. The provisions of this section shall apply to personal property held in partnership but not in excess of the value of the veteran's share actually held. Wherever the word "soldier" shall appear in this chapter, it shall be construed to include, without limitation, the members of the United States air force.

(83 Acts, ch 101, § 87) SF 136

Subsection 4 amended

427.9 Suspension of taxes. Whenever a person is a recipient of federal supplementary security income or state supplementary assistance, as defined in section 249.1, or is a resident of a health care facility, as defined by section 135C.1, which is receiving payment from the department of human services for his or her care, the person shall be deemed to be unable to contribute to the public revenue. The commissioner of human services shall notify the board of supervisors, of the county in which the assisted person owns property, of the fact, giving a statement of property, owned, possessed, or upon which the person is paying taxes as a purchaser under contract. The board of supervisors so notified, without the filing of a petition and statement as specified in section 427.8, shall order the county treasurer to suspend the collection of all the taxes assessed against the property and remaining unpaid by the person or contractually payable by the person, for such time as the person remains the owner or contractually prospective owner of the property, and during the period the person receives assistance as described in this section. The commissioner of human services shall advise the person that the person may apply for an additional property tax credit pursuant to sections 425.16 to 425.39 which shall be credited against the amount of the property taxes suspended.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

427.17 Tax credit for livestock tax.

1. The personal property tax levied on all livestock assessed for taxation as of January 1, 1973, shall not be collected in 1974, or any subsequent year, from the owners of the livestock or from those having liability for the payment of the tax.

2. A tax credit shall be allowed each taxing district in the state for each head of livestock that was assessed as of January 1, 1973. The tax credit shall commence and be effective for the tax year 1974 and each year thereafter based upon the livestock assessed as of January 1, 1973.

3. On or before January 15, 1974, the county auditor of each county shall prepare a statement listing for each taxing district in the county the assessed or taxable values of all livestock assessed for taxation as of January 1, 1973. The statement shall also show the tax rates of the various taxing districts and the total amount of taxes which in the absence of this section would have been levied upon livestock assessed as of January 1, 1973. The county auditor shall certify and forward copies of the statement to the director of revenue not later than January 15, 1974. The director of revenue shall compute the applicable tax credit and certify to the state comptroller the amount due to each taxing district, which amount shall be the dollar amount which would be payable if all livestock so assessed were taxed, based upon those assessed as of January 1, 1973.

4. The amounts due each taxing district shall be paid on warrants payable to the respective county treasurers by the state comptroller on July 15 of each year. The county treasurer shall apportion the proceeds to the various taxing districts in the county.

5. In the event that the amount appropriated for reimbursement of the taxing districts is insufficient to pay in full the amounts due to each of the taxing districts, then the amount of each payment shall be reduced by the director of revenue according to the ratio that the total amount of funds to be paid to each taxing district bears to the total amount to be paid to all taxing districts in the state.

There is appropriated from the general fund of the state of Iowa to the state comptroller for the fiscal year beginning July 1, 1973, and ending June 30, 1974, the sum of four million dollars, or so much thereof as may be necessary, and for each succeeding fiscal year the sum of eight million dollars, or so much thereof as may be necessary, to carry out the provisions of this section.

(83 Acts, ch 172, § 8) SF 540

Subsection 4 amended

CHAPTER 427A

PERSONAL PROPERTY TAX CREDIT

427A.12 Replacement fund.

1. A personal property tax replacement fund is established as a permanent fund in the office of the treasurer of state, for the purpose of reimbursing the taxing districts for their loss of revenue from personal property taxes due to the provisions of this chapter, determined as provided in this section.

2. On or before January 15, 1974, the county auditor of each county shall prepare a statement listing for each taxing district in the county:

a. The total assessed value of all personal property assessed for taxation as of January 1, 1973, excluding livestock but including other personal property eligible for tax credits granted by this chapter.

b. The millage rate of each taxing district levied in 1972 and payable in 1973.

c. The personal property tax replacement base for each taxing district, which shall be equal to the amount determined pursuant to paragraph "a" of this subsection multiplied by the millage rate specified in paragraph "b".

3. The county auditor shall certify and forward one copy each of the statement to the state comptroller and to the director of revenue not later than January 15, 1974. The director of revenue shall make any necessary corrections and certify to the state comptroller the amount of the personal property tax replacement base for each taxing district in the state, determined pursuant to subsection 2.

4. The personal property tax replacement base for each taxing district shall be permanent and shall not be adjusted, except that the state comptroller shall make any necessary corrections and shall make appropriate adjustments to reflect mergers, annexations and other changes in taxing districts or their boundaries.

5. For each state fiscal year ending with or before the year in which the ninth increase in the additional personal property tax credit under this division becomes effective, each taxing district shall be reimbursed from the personal property tax replacement fund in an amount equal to its personal property tax replacement base multiplied by a fraction the numerator of which is the total assessed value of all personal property, excluding livestock, in the taxing district on which taxes are not payable during such fiscal year because of the various tax credits granted by this chapter, and the denominator of which is the total assessed value of all personal property in the taxing district, excluding livestock but including other personal property eligible for tax credits granted by this chapter. For the half year beginning January 1, 1974, and ending June 30, 1974, the amount of reimbursement shall be half the amount determined pursuant to this subsection. The county auditor shall certify and forward to the state comptroller and the director of revenue, at the times and in the form directed by the director of revenue, any information needed for the purposes of this subsection. The director of revenue shall make any necessary corrections and certify the appropriate information to the state comptroller.

6. For each state fiscal year beginning after the year in which the ninth increase in the additional personal property tax credit under this division becomes effective, each taxing district shall be reimbursed from the personal property tax replacement fund in an amount equal to its personal property tax replacement base.

7. The amount due each taxing district shall be paid in the form of warrants payable to the respective county treasurers by the state comptroller on May 15 of each fiscal year, taking into consideration the relative budget and cash position of the state resources. The county treasurer shall pay the proceeds to the various taxing districts in the county.

8. It is the intent of the general assembly that the amounts appropriated by this division shall be sufficient to pay in full the amounts due to all taxing districts. If, for any fiscal year the amount appropriated to the personal property tax replacement fund is insufficient to pay in full the amounts due to all taxing districts, then the

amount of each payment shall be reduced by the same percentage, so that the aggregate payments to all taxing districts shall be equal to the amount appropriated for such payments.

(83 Acts, ch 172, § 9) SF 540
Subsection 7 amended

CHAPTER 428

LISTING IN GENERAL

428.24 Public utility plants. The lands, buildings, machinery, and mains belonging to individuals or corporations operating waterworks or gasworks or pipelines; the lands, buildings, machinery, tracks, poles, and wires belonging to individuals, corporations or electric power agencies furnishing electric light or power; and the lands, buildings, machinery, poles, wires, overhead construction, tracks, cables, conduits, and fixtures belonging to individuals or corporations operating railways by cable or electricity, or operating elevated street railways; shall be listed and assessed by the department of revenue. In the making of assessments of waterworks plants, the value of any interest in the property assessed, of the municipal corporation where it is situated, shall be deducted, whether the interest is evidenced by stock, bonds, contracts, or otherwise.

(83 Acts, ch 101, § 88) SF 136
Amended

CHAPTER 428A

TAXATION OF REAL ESTATE TRANSFERS

428A.4 Recording refused. The county recorder shall refuse to record any deed, instrument, or writing, taxable under section 428A.1 for which payment of the tax determined on the full amount of the consideration in the transaction has not been paid. However, if the deed, instrument, or writing, is exempt under section 428A.2, the county recorder shall not refuse to record the document if there is filed with or endorsed on it a statement signed by either the grantor or grantee or an authorized agent, that the instrument or writing is excepted from the tax under section 428A.2. The validity of an instrument as between the parties, and as to any person who would otherwise be bound by the instrument, is not affected by the failure to comply with this section. If an instrument is accepted for recording or filing contrary to this section the failure to comply does not destroy or impair the record as notice.

The county recorder shall refuse to record any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed, except those transfers exempt from tax under section 428A.2, subsections 2 to 13, until the declaration of value has been submitted to the county recorder. A declaration of value shall not be required with a deed given in fulfillment of a recorded real estate contract provided the deed has a notation that it is given in fulfillment of a contract.

(83 Acts, ch 135, § 1) SF 354
Unnumbered paragraph 1 amended

428A.5 Evidence of payment. The amount of tax imposed by this chapter shall be paid to the county recorder and the amount received and the initials of the county recorder shall appear on the face of the document or instrument. The department of revenue shall provide each county recorder with a device to be used by the recorder to evidence this information on the document or instrument.

(83 Acts, ch 135, § 2) SF 354
Amended

428A.6 Canceling stamp. Repealed by 83 Acts, ch 135, § 6. (SF 354)

428A.7 Forms provided by director of revenue. The director of revenue shall prescribe the form of the declaration of value and shall include an appropriate place for the inclusion of special facts and circumstances relating to the actual sales price in real estate transfers. The director shall provide an adequate number of the declaration of value forms to each county recorder in the state.

(83 Acts, ch 135, § 3) SF 354

Amended

428A.8 Remittance to state treasurer — portion retained in county. On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state seventy-five percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit the receipts in the general fund of the state.

The county recorder shall deposit the remaining twenty-five percent of the receipts in the county general fund.

The county recorder shall keep records and make reports with respect to the real estate transfer tax as the director of revenue prescribes.

(83 Acts, ch 135, § 4) SF 354

Amended

(83 Acts, ch 123, § 176, 209) HF 628

See Code editor's note at the end of this Supplement

Unnumbered paragraph 2 amended

428A.9 Duty of county recorders. Repealed by 83 Acts, ch 135, § 6. (SF 354)

428A.10 Penalty. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with this chapter relating to the payment of the real estate transfer tax is guilty of a simple misdemeanor.

(83 Acts, ch 135, § 5) SF 354

Amended

428A.12 Definition. Repealed by 83 Acts, ch 135, § 6. (SF 354)

CHAPTER 430A

TAXATION OF LOAN AGENCIES

430A.3 Levy. There is imposed upon capital employed in the business of making loans or investments within the state of Iowa, as determined under this chapter, a tax of five mills on each dollar of capital; the tax to be considered a tax upon moneys and credits of the corporations which shall be levied by the board of supervisors, and placed upon the tax list and collected by the county treasurer. The amount collected in each taxing district in cities shall be apportioned twenty percent to the county, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in each taxing district outside of cities shall be apportioned fifty percent to the county and fifty percent to the general fund of the state. The term "loans" means the lending of money to members of the general public upon other than real estate security. The term "investments" means the discounting, purchasing, or otherwise acquiring notes, mortgages, sales contracts, debentures, or any other evidences of indebtedness, based upon other than real estate security when the investments are made in connection with loans made to members of the general public in the state of Iowa or in the course of any operations having as their effect the financing of business transactions within the state of Iowa resulting in the incurring of any indebtedness based upon security other than real estate security.

(83 Acts, ch 123, § 177, 209) HF 628

Amended

CHAPTER 433

TELEGRAPH AND TELEPHONE COMPANIES TAXATION

433.15 Failure to file. In the event of the failure or refusal of any telephone or telegraph company, owning or operating any telephone or telegraph line not situated upon the right of way of a railway, to file the map required under section 433.14, at the time and according to the conditions named, then the county auditor may cause the map to be prepared by the county surveyor and the cost of it shall, in the first place, be audited and paid by the board of supervisors of the county and the amount shall be by the board levied as a special tax against the company and the property of the company, which shall be collected in the same manner as county taxes.

(83 Acts, ch 123, § 178, 209) HF 628

Amended

CHAPTER 434

RAILWAY COMPANIES TAXATION

434.19 Failure to file. In the event of the failure or refusal of any railroad company to file the plats required under section 434.18, at the time or according to the conditions named, then the county auditor may cause them to be prepared by the county surveyor and their cost shall, in the first place, be audited and paid by the board of supervisors, and the amount shall be levied by the board as a special tax against the company and the property of the company, which shall be collected as county taxes.

(83 Acts, ch 123, § 179, 209) HF 628

Amended

CHAPTER 441

ASSESSMENT AND VALUATION OF PROPERTY

441.12 Dog fee. Repealed by 83 Acts, ch 123, § 206, 209. (HF 628)

441.17 Duties of assessor. The assessor shall:

1. Devote his entire time to the duties of his office and shall not engage in any occupation or business interfering or inconsistent with such duties.
2. Cause to be assessed, in accordance with section 441.21, all the property, personal and real, in his county or city as the case may be, except such as is exempt from taxation, or the assessment of which is otherwise provided for by law.
3. Have access to all public records of the county and, so far as practicable, make or cause to be made a careful examination of all such records and files in order to obtain all available information which may contribute to the accurate listing at its taxable value, and to the proper persons, of all property subject to assessment by him.
4. Co-operate with the director of revenue as may be necessary or required, and he shall obey and execute all orders, directions, and instructions of the director of revenue, insofar as the same may be required by law.
5. Have power to apply to the district court of the county for an order to examine witnesses and requiring the production of books and records of any person, firm, association or corporation within the county, whenever he has reason to believe that such person, firm, association or corporation has not listed his or its property as provided by law. The proceeding for the examination of witnesses and examination of the books and records of any such taxpayer, to determine the existence of taxable

property, shall be instituted and conducted in the manner provided for the discovery of property under the provisions of chapter 630. The court shall make an appropriate finding as to the existence of taxable property not listed. All taxable property discovered thereby shall thereupon be assessed by the assessor in the manner provided by law.

In all cases where the court finds that the taxpayer has not listed its or his property, as provided by law, and in all hearings where the court decides a matter against the taxpayer, the costs shall be paid by the taxpayer, otherwise they shall be paid out of the assessment expense fund. The fees and mileage to be paid witnesses shall be the same as prescribed by law in proceedings in the district courts of this state in civil cases. Where the costs are taxed to the taxpayer they shall be added to the taxes assessed against said taxpayer and his property and shall be collected in the same manner as are other taxes.

6. Make up all assessor's books and records as prescribed by the director of revenue, turn the completed assessor's books and records required for the preparation of the tax list over to the county auditor each year when the board of review has concluded its hearings and the county auditor shall proceed with the preparation of the current year tax list and the assessor shall co-operate with the auditor in the preparation of the tax lists.

7. Submit on or before May 1 of each year completed assessment rolls to the board of review.

8. Lay before the board of review such information as he may possess which will aid said board in performing its duties in adjusting the assessments to the valuations required by law.

9. Furnish to the director of revenue any information which he may have relative to the ownership of any property that may be assessable within this state, but not assessable or subject to being listed for taxation by him.

10. Measure the exterior length and exterior width of all mobile homes except those for which measurements are contained in the manufacturer's and importer's certificate of origin, and report the information to the county treasurer. Check all mobile homes and travel trailers for inaccuracy of measurements as necessary or upon written request of the county treasurer and check travel trailers for violations of registration and report the findings immediately to the county treasurer. If a mobile home has been converted to real estate the title shall be collected and returned to the county treasurer for cancellation. If taxes due for prior years have not been paid, the assessor shall collect the unpaid taxes due as a condition of conversion. The assessor shall make frequent inspections and checks within the assessor jurisdiction of all mobile homes and mobile home parks and travel trailers and make all the required and needed reports to carry out the purposes of this section.

(83 Acts, ch 64, § 2) HF 119

Subsection 10 amended

441.21 Actual, assessed and taxable value.

1. *a.* All real and tangible personal property subject to taxation shall be valued at its actual value which shall be entered opposite each item, and, except as otherwise provided in this section, shall be assessed at one hundred percent of its actual value, and the value so assessed shall be taken and considered as the assessed value and taxable value of the property upon which the levy shall be made.

b. The actual value of all property subject to assessment and taxation shall be the fair and reasonable market value of such property except as otherwise provided in this section. "Market value" is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property. Sale prices of the property or comparable property in normal transactions reflecting market value, and the proba-

ble availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value. In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit.

c. In assessing and determining the actual value of special purpose industrial real and tangible personal property having an actual value of five million dollars or more, the assessor shall equalize the values of such property with the actual values of other comparable special purpose industrial property in other counties of the state. Such special purpose industrial property includes, but is not limited to chemical plants. If a variation of ten percent or more exists between the actual values of comparable industrial property having an actual value of five million dollars or more located in separate counties, the assessors of such counties shall consult with each other and with the department of revenue to determine if adequate reasons exist for such variation. If no such reasons exist, the assessors shall make adjustments in such actual values to provide for a variation of ten percent or less. For the purposes of this paragraph, special purpose industrial property includes structures which are designed and erected for operation of a unique and special use, are not rentable in existing condition and are incapable of conversion to ordinary commercial or industrial use except at a substantial cost.

d. Actual value of property in one assessing jurisdiction shall be equalized as compared with actual value of property in an adjoining assessing jurisdiction. If a variation of five percent or more exists between the actual values of similar, closely adjacent property in adjoining assessing jurisdictions in Iowa, the assessors thereof shall determine whether adequate reasons exist for such variation. If no such reasons exist, the assessors shall make adjustments in such actual values to reduce the variation to five percent or less.

e. The actual value of agricultural property shall be determined on the basis of productivity and net earning capacity of the property determined on the basis of its use for agricultural purposes capitalized at a rate of seven percent and applied uniformly among counties and among classes of property. Any formula or method employed to determine productivity and net earning capacity of property shall be adopted in full by rule.

f. In counties or townships in which field work on a modern soil survey has been completed since January 1, 1949, the assessor and the department of revenue shall place emphasis upon the results of such survey in determining the productive and earning capacity of such agricultural property.

g. Notwithstanding any other provision of this section, the actual value of any property shall not exceed its fair and reasonable market value, except agricultural property which shall be valued exclusively as provided in paragraph "e" of this subsection.

2. The market value of an inventory or goods in bulk shall be their market value as such inventory or goods in bulk, not their retail or unit price. Such market value shall be fair and reasonable based on market value of similar classes of property.

In the event market value of the property being assessed cannot be readily established in the foregoing manner, then the assessor may determine the value of the property using the other uniform and recognized appraisal methods including its productive and earning capacity, if any, industrial conditions, its cost, physical and functional depreciation and obsolescence and replacement cost, and all other factors which would assist in determining the fair and reasonable market value of the property but the actual value shall not be determined by use of only one such factor. The following shall not be taken into consideration: Special value or use value of the property to its present owner, and the good will or value of a business which

uses the property as distinguished from the value of the property as property. Upon adoption of uniform rules by the revenue department or succeeding authority covering assessments and valuations of such properties, said valuation on such properties shall be determined in accordance therewith for assessment purposes to assure uniformity, but such rules shall not be inconsistent with or change the foregoing means of determining the actual, market, taxable and assessed values.

3. "Actual value", "taxable value", or "assessed value" as used in other sections of the Code in relation to assessment of property for taxation shall mean the valuations as determined by this section; however, other provisions of the Code providing special methods or formulas for assessing or valuing specified property shall remain in effect, but this section shall be applicable to the extent consistent with such provisions. The assessor and department of revenue shall disclose at the written request of the taxpayer all information in any formula or method used to determine the actual value of his property.

The burden of proof shall be upon any complainant attacking such valuation as excessive, inadequate, inequitable or capricious; however, in protest or appeal proceedings when the complainant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation to be assessed.

4. For valuations established as of January 1, 1978, agricultural and residential property shall be assessed at a percentage of the actual value of each class of property. The percentage shall be determined for each class of property by the director of revenue for the state in accordance with the provisions of this section. For valuations established as of January 1, 1978, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend shall be the total equalized value of such property in the state in 1975, adjusted for additions or deletions to said value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment submitted in 1976 and 1977, plus six percent of the 1975 equalized value of such property or the amount of value added by the revaluation of existing properties in 1976, 1977 and 1978 whichever is less. The divisor shall be the total value of such property in the state as reported by the assessors on the abstracts of assessment submitted in 1977, plus the amount of value added in 1978 by the revaluation of existing properties.

5. For valuations established as of January 1, 1979, the percentage of actual value at which agricultural and residential property shall be assessed shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the dividend as determined for each class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, plus six percent of the amount so determined. However, if the difference between the dividend so determined for either class of property and the dividend for that class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, is less than six percent, the 1979 dividend for the other class of property shall be the dividend as determined for that class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, plus

a percentage of the amount so determined which is equal to the percentage by which the dividend as determined for the other class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, is increased in arriving at the 1979 dividend for the other class of property. The divisor for each class of property shall be the total actual value of all such property in the state in the preceding year, as reported by the assessors on the abstracts of assessment submitted for 1978, plus the amount of value added to said total actual value by the revaluation of existing properties in 1979 as equalized by the director of revenue pursuant to section 441.49. The director shall utilize information reported on abstracts of assessment submitted pursuant to section 441.45 in determining such percentage. For valuations established as of January 1, 1980, and each year thereafter, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which agricultural and residential property shall be assessed shall be calculated in accordance with the methods provided herein including the limitation of increases in agricultural and residential assessed values to the percentage increase of the other class of property if the other class increases less than the allowable limit adjusted to include the applicable and current values as equalized by the director of revenue, except that any references to six percent in this subsection shall be four percent.

6. For valuations established as of January 1, 1979, commercial property and industrial property, excluding properties referred to in section 427A.1, subsection 6, shall be assessed as a percentage of the actual value of each class of property. The percentage shall be determined for each class of property by the director of revenue for the state in accordance with the provisions of this section. For valuations established as of January 1, 1979, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the total actual valuation for each class of property established for 1978, plus six percent of the amount so determined. The divisor for each class of property shall be the valuation for each class of property established for 1978, as reported by the assessors on the abstracts of assessment for 1978, plus the amount of value added to the total actual value by the revaluation of existing properties in 1979 as equalized by the director of revenue pursuant to section 441.49. For valuations established as of January 1, 1979, property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be considered as one class of property and shall be assessed as a percentage of its actual value. The percentage shall be determined by the director of revenue in accordance with the provisions of this section. For valuations established as of January 1, 1979, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend shall be the total actual valuation established for 1978 by the department of revenue, plus ten percent of the amount so determined. The divisor for property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be the valuation established for 1978, plus the amount of value added to the total actual value by the revaluation of the property by the department of revenue as of January 1, 1979. For valuations established as of January 1, 1980, commercial property and industrial property, excluding properties referred to in section 427A.1, subsection 6, shall be assessed at a percentage of the actual value of each class of property. The percentage shall be determined for each class of property by the director of revenue for the state in accordance with the provisions of this section. For valuations established as of January 1, 1980, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the dividend as determined for each class of property for valuations established as of January 1, 1979, adjusted by the product obtained by multiplying the percent-

age determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1979, plus four percent of the amount so determined. The divisor for each class of property shall be the total actual value of all such property in 1979, as equalized by the director of revenue pursuant to section 441.49, plus the amount of value added to the total actual value by the revaluation of existing properties in 1980. The director shall utilize information reported on the abstracts of assessment submitted pursuant to section 441.45 in determining such percentage. For valuations established as of January 1, 1980, property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be assessed at a percentage of its actual value. The percentage shall be determined by the director of revenue in accordance with the provisions of this section. For valuations established as of January 1, 1980, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend shall be the total actual valuation established for 1979 by the department of revenue, plus eight percent of the amount so determined. The divisor for property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be the valuation established for 1979, plus the amount of value added to the total actual value by the revaluation of the property by the department of revenue as of January 1, 1980. For valuations established as of January 1, 1981, and each year thereafter, the percentage of actual value as equalized by the director of revenue as provided in section 441.49 at which commercial property and industrial property, excluding properties referred to in section 427A.1, subsection 6, shall be assessed shall be calculated in accordance with the methods provided herein, except that any references to six percent in this subsection shall be four percent. For valuations established as of January 1, 1981, and each year thereafter, the percentage of actual value at which property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be assessed shall be calculated in accordance with the methods provided herein, except that any references to ten percent in this subsection shall be eight percent. Beginning with valuations established as of January 1, 1979, and each year thereafter, property valued by the department of revenue pursuant to chapter 434 shall also be assessed at a percentage of its actual value which percentage shall be equal to the percentage determined by the director of revenue for commercial property, industrial property, or property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438, whichever is lowest.

7. Beginning with valuations established as of January 1, 1978, the assessors shall report the aggregate taxable values and the number of dwellings located on agricultural land and the aggregate taxable value of all other structures on agricultural land. Beginning with valuations established as of January 1, 1981, the agricultural dwellings located on agricultural land shall be valued at their market value as defined in this section and agricultural dwellings shall be valued as rural residential property and shall be assessed at the same percentage of actual value as is all other residential property.

8. For the purpose of computing the debt limitations for municipalities, political subdivisions and school districts, the term "actual value" means the "actual value" as determined by subsections 1 to 3 of this section without application of any percentage reduction and entered opposite each item, and as listed on the tax list as provided in section 443.2 as "actual value".

Whenever any board of review or other tribunal changes the assessed value of property, all applicable records of assessment shall be adjusted to reflect such change in both assessed value and actual value of such property.

9. a. Any normal and necessary repairs to any building, not amounting to structural replacements or modification, shall not increase the taxable value of such building. The provisions of this paragraph shall apply only to repairs of five hundred dollars or less per building per year.

b. Notwithstanding paragraph "a" of this subsection, any construction or installation of gas production systems using waste or manure to produce gas completed on property classified as agricultural, residential, commercial, or industrial property shall not increase the actual, assessed and taxable values of the property for assessment years beginning on January 1, 1979 and ending on or before December 31, 1985. In addition, notwithstanding paragraph "a" of this subsection, any construction or installation of a solar energy system on property so classified shall not increase the actual, assessed and taxable values of the property for five full assessment years.

c. As used in this subsection "solar energy system" means either of the following:

(1) A system of equipment capable of collecting and converting incident solar radiation or wind energy into thermal, mechanical or electrical energy and transforming these forms of energy by a separate apparatus to storage or to a point of use which is constructed or installed after January 1, 1978.

(2) A system that uses the basic design of the building to maximize solar heat gain during the cold season and to minimize solar heat gain in the hot season and that uses natural means to collect, store and distribute solar energy which is constructed or installed after January 1, 1981.

In assessing and valuing the property for tax purposes, the assessor shall disregard any market value added by a solar energy system to a building. The director of revenue shall adopt rules, after consultation with the energy policy council, specifying the types of equipment and structural components to be included under the guidelines provided in this subsection.

10. Not later than November 1, 1979 and November 1 of each subsequent year, the director shall certify to the county auditor of each county the percentages of actual value at which residential property, agricultural property, commercial property, industrial property, and property valued by the department of revenue pursuant to chapters 428, 433, 434, 436, 437, and 438 in each assessing jurisdiction in the county shall be assessed for taxation. The county auditor shall proceed to determine the assessed values of agricultural property, residential property, commercial property, industrial property, and property valued by the department of revenue pursuant to chapters 428, 433, 434, 436, 437, and 438 by applying such percentages to the current actual value of such property, as reported to the county auditor by the assessor, and the assessed values so determined shall be the taxable values of such properties upon which the levy shall be made.

11. The percentage of actual value computed by the director for agricultural property, residential property, commercial property, industrial property and property valued by the department of revenue pursuant to chapters 428, 433, 434, 436, 437, and 438 and used to determine assessed values of those classes of property does not constitute a rule as defined in section 17A.2, subsection 7.

(83 Acts, ch 202, § 22, 23) HF 638

Effective January 1, 1984

Subsection 1, paragraph e amended

441.45 Abstract to state department of revenue. The county assessor of each county and each city assessor shall, on or before July 1 of each year, make out and transmit to the department of revenue an abstract of the real and personal property in his or her county or city, as the case may be, and file a copy thereof with the county auditor, in which the assessor shall set forth:

1. The number of acres of land and the aggregate taxable values of the same, exclusive of city lots, returned by the assessors, as corrected by the board of review.

2. The aggregate taxable values of real estate by class in each township and city in the county, returned as corrected by the board of review.

3. The aggregate taxable values of personal property.

4. Other facts as may be required by the director of revenue.

In any case where a board of review continues in session beyond June 1, under

provisions of sections 441.33 and 441.37 the abstract of the real and personal property shall be made out and transmitted to the department of revenue within fifteen days after the date of final adjournment by said board.

(83 Acts, ch 140, § 1) HF 621

Subsection 2 amended

441.68 Collection or assessment of costs. The auditor shall at the same time assess the amount pro rata by area upon the several subdivisions of the tract, lot or parcel so subdivided, and it shall be collected in the same manner as general taxes.

(83 Acts, ch 123, § 180, 209) HF 628

Amended

CHAPTER 442

SCHOOL FOUNDATION PROGRAM

442.3 State foundation base. The state foundation base for the school year beginning July 1, 1972, is seventy percent of the state cost per pupil. Except as otherwise provided in this section, for each succeeding school year the state foundation base shall be increased by the amount of one percent of the state cost per pupil, up to a maximum of eighty percent of the state cost per pupil. However, for the school years beginning July 1, 1980, July 1, 1981, and July 1, 1982, the state foundation base shall be the same as the state foundation base for the school year beginning July 1, 1979. For the school year beginning July 1, 1984, the state foundation base is eighty percent of the state cost per pupil if the estimate of the ending fund balance of the state general fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985, as estimated by the state comptroller in January, 1984, is equal to or greater than thirty million dollars. The district foundation base is the larger of the state foundation base or the amount per pupil which the district will receive from foundation property tax and state school foundation aid.

(83 Acts, ch 185, § 34, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

Amended

442.4 Enrollment.

1. Basic enrollment for the budget year beginning July 1, 1979 and each subsequent budget year is determined by adding the resident pupils who were enrolled on the second Friday of September in the base year in public elementary and secondary schools of the district and in public elementary and secondary schools in another district or state for which tuition is paid by the district. For the school year beginning July 1, 1975, and each succeeding school year, pupils enrolled in prekindergarten programs other than special education programs are not included in basic enrollment.

Resident pupils of high school age for which the district pays tuition to attend an Iowa area school are included in basic enrollment on a full-time equivalent basis as of the second Friday of September in the base year for the budget year beginning July 1, 1979 and each subsequent budget year.

Shared-time and part-time pupils of school age, irrespective of the districts in which the pupils reside, are included in basic enrollment as of the second Friday of September in the base year for the budget year beginning July 1, 1979 and each subsequent budget year, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time out-of-district pupil shall be

reduced by the amount of any increased state aid occasioned by the counting of the pupil.

Pupils attending a university laboratory school are not counted in any district's basic enrollment, but the laboratory school shall report them directly to the department of public instruction.

A school district shall certify its basic enrollment to the department of public instruction by September 25 of each year, and the department shall promptly forward the information to the state comptroller. For purposes of determining whether a district is entitled to an advance for increasing enrollment a determination of actual enrollment shall be made on the second Friday of September in the budget year by counting the pupils in the same manner and to the same extent that they are counted in determining basic enrollment, but substituting the count in the budget year for the count in the base year. In addition, a school district shall determine its additional enrollment because of special education defined in section 442.38, on December 1 of each year and if the district is entitled to an advance for special education, it shall certify its additional enrollment because of special education to the department of public instruction by December 15 of each year, and the department shall promptly forward the information to the state comptroller.

2. An adjusted enrollment for each district shall be computed as follows:

a. For the school year beginning July 1, 1980, and each subsequent school year, the adjusted enrollment for a school district is equal to the larger of the following:

- (1) The basic enrollment for the base year.
- (2) The basic enrollment for the budget year.

If a school district uses subparagraph (2) of this paragraph for its adjusted enrollment and the district's actual enrollment for the budget year is larger than the adjusted enrollment computed under subparagraph (2) of this paragraph, the district may be eligible to receive an advance for increasing enrollment under section 442.28.

b. For the school year beginning July 1, 1979, if a district has a decrease from the basic enrollment in the base year to the basic enrollment in the budget year the state comptroller shall compute an amount to be added to the basic enrollment for the budget year. The amount to be added is equal to one hundred percent of the basic enrollment decrease to the extent that it does not exceed two and one-half percent of the base year's basic enrollment, and fifty percent of the remaining basic enrollment decrease. If the school district's basic enrollment in the base year is equal to or less than the basic enrollment for budget year the adjusted enrollment shall equal the basic enrollment for the budget year.

3. For the school year beginning July 1, 1980, and each subsequent school year, budget enrollment means the sum of the following:

a. Twenty-five percent of the basic enrollment for the school year beginning July 1, 1979.

b. Seventy-five percent of the adjusted enrollment computed under subsection 2, paragraph "a," of this section.

c. Adjustments made by the state comptroller under subsection 5 of this section.

4. For the school year beginning July 1, 1984 and each subsequent school year, if a school district's basic enrollment for the budget year is larger than its budget enrollment for the budget year, the district shall use its basic enrollment for the budget year in lieu of its budget enrollment for the budget year for computations required in this chapter.

5. For the school year beginning July 1, 1984 and each succeeding school year, if an amount equal to the district cost per pupil for the budget year minus the amount included in the district cost per pupil for the budget year to compensate for the cost of special education support services for a school district for the budget year times the budget enrollment of the school district for the budget year is less than one hundred two percent times an amount equal to the district cost per pupil for the base

year minus the amount included in the district cost per pupil for the base year to compensate for the cost of special education support services for a school district for the base year times the budget enrollment for the school district for the base year, the state comptroller shall increase the budget enrollment for the school district for the budget year to a number which will provide that one hundred two percent amount.

6. For the school year beginning July 1, 1980, and each subsequent school year, weighted enrollment is the budget enrollment as modified by application of the special education weighting plan in section 281.9 and the supplementary weighting plan in this chapter.

Commencing with the school year beginning July 1, 1981 and each school year thereafter, the weighted enrollment shall be determined on the basis of a count of a district's additional enrollment because of special education, as defined in section 442.38, on December 1 of the base year.

(83 Acts, ch 185, § 35, 36, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

NEW subsection 4 added and following subsections renumbered

Subsection 5 (formerly 4) struck and rewritten

442.7 State percent of growth — allowable growth.

1. For school years subsequent to the school year beginning July 1, 1978, a state percent of growth for the budget year shall be computed by the state comptroller prior to September 15 in the base year and forwarded to the superintendent of public instruction. The state percent of growth shall be an average of the following four percentages of growth except as otherwise provided in paragraph "c" of this subsection:

a. The difference in the receipts of state general fund revenues computed or estimated as follows:

(1) The percentage of change between the revenues received during the second year preceding the base year and the revenues received during the year preceding the base year.

(2) The percentage of change between the revenues received during the year preceding the base year and the revenues received during the base year.

b. The difference in the gross national product implicit price deflator published by the bureau of economic analysis, United States department of commerce, computed or estimated as a percentage of change for the following:

(1) From the value for the quarter ending December 31 eighteen months prior to the beginning of the base year to the value for the quarter ending December 31 six months prior to the beginning of the base year.

(2) From the value for the quarter ending December 31 six months prior to the beginning of the base year to the value for the quarter ending December 31 six months prior to the beginning of the budget year.

The computation of the percentage change in the gross national product implicit price deflator shall be based, to the extent possible, on the latest available values for these deflators published by the bureau of economic analysis.

c. If the average of the percentages computed or estimated under paragraph "b" of this subsection exceeds the average of the percentages computed or estimated under paragraph "a" of this subsection, the state percent of growth shall be the average of the two percentages of growth computed or estimated under paragraph "a" of this subsection.

2. Notwithstanding subsection 1 of this section, for the school year beginning July 1, 1980 only, the state percent of growth is the average of the two percentages of growth computed under subsection 1, paragraph "b," of this section.

3. If the state percent of growth so computed is negative, that percentage shall not be used and the state percent of growth shall be zero.

4. Each year prior to September 15 the state comptroller shall recompute the

state percent of growth for the previous year using adjusted estimates and the actual figures available. The difference between the recomputed state percent of growth for the base year and the original computation shall be added to or subtracted from the state percent of growth for the budget year, as applicable. However, for the budget school year beginning July 1, 1980 only, the state comptroller shall recompute the state percent of growth for the previous year using adjusted estimates and the actual figures available based only upon the consumer price index.

With regard to values of gross national product implicit price deflators, the recomputation of the state percent of growth for the previous year shall be made only with respect to the value of the deflator for the quarter which occurred subsequent to the calculation of the state percent of growth for the previous year. If subsection 1, paragraph "c," of this section is used in the calculation of the state percent of growth for the previous year, the calculation made in subsection 1, paragraph "b," of this subsection shall not be used in the recomputation of the state percent of growth for the previous year.

For the school year beginning July 1, 1981, the recomputation of the state percent of growth for the year beginning July 1, 1980 computed prior to September 15, 1980 and added to or subtracted from the state percent of growth for the school year beginning July 1, 1981 shall also include a percent equal to the difference between the estimate made of the percentage of growth in the receipts of state general fund revenue by the state comptroller prior to September 15, 1978 in computing the state percent of growth for the school year beginning July 1, 1979 and the actual figures of the percentage of growth in the receipts of state general fund revenue.

5. Notwithstanding subsections 1 through 4, for the school year beginning July 1, 1984, if the estimate of the ending fund balance of the state general fund for the fiscal year beginning July 1, 1984 and ending June 30, 1985, as estimated by the state comptroller in January, 1984, is equal to or greater than thirty million dollars and the state foundation base increases to eighty percent pursuant to section 442.3, the state percent of growth, including the recomputations required under subsection 4, is six and two-tenths percent.

6. The basic allowable growth per pupil for the budget year shall be computed by multiplying the state cost per pupil for the base year times the state percent of growth for the budget year.

7. The allowable growth per pupil for each school district is the basic allowable growth per pupil, for the budget year modified as follows:

a. If the state cost per pupil for the budget year exceeds the district cost per pupil for the budget year, the basic allowable growth per pupil for the budget year is modified to equal one hundred ten percent of the product of the state cost per pupil for the base year times the state percent of growth for the budget year. However, the basic allowable growth per pupil for the budget year under this paragraph shall not exceed the difference between the state cost per pupil for the budget year and the district cost per pupil for the budget year. For purposes of this paragraph the state cost per pupil and the district cost per pupil shall not include special education support service costs, and the district cost per pupil for the budget year shall not include that portion of the district cost per pupil created by additions or subtractions to the allowable growth per pupil for the budget year and for prior school years beginning with the school year commencing July 1, 1977, as provided under paragraph "b" of this subsection.

b. By the school budget review committee under section 442.13.

c. For the school year beginning July 1, 1975 only, by adding to the basic allowable growth per pupil for the budget year an amount to compensate for the costs of special education support services provided through the area education agency. The total amount for each area shall be based upon the program plans submitted by the special education director of the area education agency as required by section 273.5, which shall be modified as necessary and approved by the department of

public instruction according to the criteria and limitations of section 273.5 and chapter 281. The amount of additional allowable growth per pupil for the budget year for each district in an area shall be determined by dividing the total amount for the area so determined by the weighted enrollment of the area for the budget year.

d. For the school year beginning July 1, 1976 and ending with the school year beginning July 1, 1980, by adding to the basic allowable growth an amount to compensate for the additional costs of special education support services provided through the area education agency. For the school years beginning July 1, 1978 and July 1, 1979 only, the total amount for each area shall be equal to the total amount approved for special education support services for the base year times one hundred percent plus the state percent of growth. In addition to the amount provided in this paragraph to each area for the school years beginning July 1, 1978 and July 1, 1979 to compensate for the additional costs of special education support services, each area may be granted by the state board an additional amount to serve children newly identified as requiring the services pursuant to plans submitted by the special education director of the area education agency as required by section 273.5. The total of additional amounts granted throughout the state by the state board for the school year beginning July 1, 1978 shall not exceed the total amount approved for special education support services for the school year beginning July 1, 1977 times four and eighty-seven hundredths percent, and for the school year beginning July 1, 1979 shall not exceed the total amount approved for special education support services for the school year beginning July 1, 1978 times three percent. For the school year beginning July 1, 1980 the total amount for the state for special education support services shall not exceed the total amount approved for special education support services for the base year times one hundred percent plus the state percent of growth, and the total amount for each area shall be determined by the state board of public instruction pursuant to plans submitted by the special education director of the area education agency as required by section 273.5, which shall be modified as necessary and approved by the state board of public instruction according to the criteria and limitations of section 273.5 and chapter 281 and within the total amount for the state provided in this paragraph. The amount of additional allowable growth per pupil for the budget year for each district in an area shall be determined by dividing the total amount for the area so determined by the weighted enrollment of the area for the budget year.

e. For the school years prior to the school year beginning July 1, 1981, for the additional allowable growth computed under paragraphs "c" and "d" of this subsection, the state board of public instruction, in co-operation with the appropriate personnel of the area education agency, shall determine the amounts for each area education agency, as required and the state comptroller shall calculate the amounts of additional allowable growth for each district necessary to fund the total special education support services costs as increased for the budget year under paragraph "d" of this subsection, and shall calculate the amounts due from each district to its area education agency by multiplying the additional allowable growth per pupil necessary to fund the total special education support services costs as increased for the budget year under paragraph "d" of this subsection by the weighted enrollment in the district for the budget year. The state comptroller shall deduct the amounts so calculated for each school district from the state aid due to the district pursuant to this chapter and shall pay the amounts to the area education agencies on a quarterly basis during each school year. The state comptroller shall notify each school district of the amount of state aid deducted for this purpose and the balance of state aid will be paid to the district. If a district does not qualify for state aid under this chapter in an amount sufficient to cover its amount due to the area education agency as calculated by the state comptroller, the school district shall pay the deficiency to the area education agency from other moneys received by the district, on a quarterly basis during each school year.

f. By the state comptroller under section 442.35.

g. For the school year beginning July 1, 1981 and succeeding school years, the amount included in the district cost per pupil in weighted enrollment for special education support services costs for each district in an area education agency for a budget year is the amount included in the district cost per pupil in weighted enrollment for special education support services costs in the base year plus the allowable growth added to state cost per pupil for special education support services costs for the budget year, except as provided in paragraph "h". Funds shall be paid to area education agencies as provided in section 442.25.

h. For the school year beginning July 1, 1983 and succeeding school years, the state board of public instruction may direct the state comptroller to increase or reduce the allowable growth added to district cost per pupil in weighted enrollment for a budget year for special education support services costs in an area education agency in the base year based upon special education support services needs in the area. However, an increase in the allowable growth can only be granted by action of the state board to restore a previous reduction or portion of a reduction in allowable growth for that year or the previous year.

i. For the budget school year beginning July 1, 1984, by adding to the basic allowable growth per pupil for the budget year an amount not to exceed the amount of moneys received by a school district under section 302.3 during the school year beginning July 1, 1982 and ending June 30, 1983, as certified by the board of directors to the state comptroller.

8. For the school year beginning July 1, 1981 and succeeding school years, the allowable growth added to state cost per pupil for special education support services costs is the amount included in state cost per pupil for special education support services costs for the base year times the state percent of growth for the budget year. However, for the school year beginning July 1, 1981, no allowable growth shall be added, except as provided under subsection 9.

9. Allowable growth. For the school year beginning July 1, 1981, the state comptroller shall add to the allowable growth of affected school districts, an amount equal to the difference between the amount per pupil in weighted enrollment for the approved budget for the school year beginning July 1, 1980 for special education support services in that area education agency and the amount per pupil in weighted enrollment for the amount certified to generate funds for the school year beginning July 1, 1980 for special education support services in the area education agency and shall adjust the state cost per pupil accordingly.

(83 Acts, ch 185, § 37, 38, 60, 62) HF 562

Notwithstanding subsection 7, paragraph a, if the state cost per pupil for the budget year beginning July 1, 1984, exceeds the district cost per pupil for the budget year beginning July 1, 1984, the basic allowable growth per pupil for the budget year shall equal one hundred percent of the product of the state cost per pupil for the base year times the state percent of growth for the budget year.

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

Subsection 5 struck and rewritten

NEW paragraph i added to subsection 7

(83 Acts, ch 191, § 21, 27) HF 184

Effective April 14, 1983

Subsection 7, paragraphs g and h amended

442.8 State cost per pupil. As used in this chapter, "state cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means state cost per pupil in weighted enrollment. The state cost per pupil for the school year beginning July 1, 1972, is nine hundred three dollars. The state cost per pupil for the school year beginning on July 1, 1973, and for each succeeding school year is the base year's state cost per pupil plus the allowable growth for the budget year. If the state percent of growth is zero, the state cost per pupil shall be the same as the base year's state cost per pupil.

However, for the budget years beginning July 1, 1980, July 1, 1982, July 1, 1983, and July 1, 1984, the state cost per pupil shall equal the base year's state cost per

pupil plus the allowable growth for the budget year plus an adjustment to the state cost per pupil. For the budget years beginning July 1, 1980, July 1, 1982, July 1, 1983, and July 1, 1984, the adjustment to the state cost per pupil is twenty dollars per pupil, thirteen dollars per pupil, eight dollars per pupil, and eight dollars per pupil, respectively.

Commencing with the school year beginning July 1, 1976, and ending with the school year beginning July 1, 1979, the allowable growth added to the state cost per pupil as otherwise computed under section 442.7 shall be the basic allowable growth increased by an amount equal to the average of the amounts of allowable growth added for each school district in the state for additional special education support services needed for that year to serve newly identified children who require the services, under sections 273.9, subsection 3 and 442.7, subsection 5, paragraph "d". The state comptroller shall compute the applicable amount of allowable growth to be added to the state cost per pupil for each school year.

(83 Acts, ch 185, § 40, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

Unnumbered paragraph 2 amended

442.9 District cost per pupil — district cost — additional school district property tax levy.

1. The state comptroller shall determine the additional school district property tax levy for each school district, which is in addition to the foundation property tax levy, as follows:

a. As used in this chapter, "*district cost per pupil*" for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The district cost per pupil for the budget year is equal to the district cost per pupil for the base year plus the allowable growth. However, district cost per pupil does not include additional allowable growth added for programs for gifted and talented children and for programs for returning dropouts under this chapter or for school districts that have a negative balance of funds raised for special education instruction programs under section 442.13, subsection 14, paragraph "b", and does not include additional allowable growth established by the school budget review committee for a single school year only.

b. The district cost for the budget year is equal to the district cost per pupil for the budget year multiplied by the weighted enrollment, plus the additional district cost allocated to the district under section 442.27 to fund media services and educational services provided through the area education agency. A school district may not increase its district cost for the budget year except to the extent that an excess tax levy is authorized by the school budget review committee as provided in section 442.13.

c. The amount to be raised by the additional school district property tax levy is equal to the district cost for the budget year, less the product of the state or district foundation base and the weighted enrollment.

2. No later than May 1 of each year, the state comptroller shall notify the county auditor of each county the amount, in dollars and cents per thousand dollars of assessed value, of the additional property tax levy in each school district in the county. Each county auditor shall spread the additional property tax levy for each school district over all taxable property in the district.

(83 Acts, ch 191, § 23, 27) HF 184

Effective April 14, 1983

Subsection 1, paragraph a amended

(83 Acts, ch 185, § 39, 62) HF 562

Effective July 1, 1983, for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 1, paragraph a amended

442.10 Special education support services balances. Notwithstanding chapters 273 and 281 and sections of this chapter relating to the moneys available to area education agencies for special education support services, for the school year commencing July 1, 1983 and succeeding school years, the state board of public instruction may direct the state comptroller to deduct amounts from the portions of school district budgets that fund special education support services in an area education agency. The total amount deducted in an area shall be based upon excess special education support services unreserved and undesignated fund balances in that area education agency for a school year. The state comptroller shall determine the amount deducted from each school district in an area education agency on a proportional basis. The state comptroller shall determine from the amounts deducted from the portions of school district budgets that fund area education agency special education support services the amount that would have been local property taxes and the amount that would have been state aid and for the next following budget year shall increase the district's total state school aids available under this chapter for area education agency special education support services and reduce the district's property tax levy for area education agency special education support services by the amount necessary for the property tax portion of the deductions made under this section during the budget year.

The amount deducted from a school district's budget shall not affect the calculation of the state cost per pupil or its district cost per pupil in that school year or a subsequent year.

(83 Acts, ch 191, § 22, 27) HF 184

Effective April 14, 1983

NEW section

442.13 Duties of the committee.

1. The school budget review committee may recommend the revision of any rules, regulations, directives, or forms relating to school district budgeting and accounting, confer with local school boards or their representatives and make recommendations relating to any budgeting or accounting matters, and may direct the superintendent of public instruction or the state comptroller to make studies and investigations of school costs in any school district.

2. The committee shall report to each session of the general assembly, which report shall include any recommended changes in laws relating to school districts, and shall specify the number of hearings held annually, the reasons for the committee's recommendations, information about the amounts of property tax levied by school districts for a cash reserve, and other information the committee deems advisable.

3. The committee shall review the proposed budget and certified budget of each school district, and may make recommendations. The committee may make decisions affecting budgets to the extent provided in this chapter. The costs and computations referred to in this section relate to the budget year unless otherwise expressly stated.

4. Subject to the minimum for the school years beginning July 1, 1974, and July 1, 1975, as provided in section 442.7, the committee may establish a modified allowable growth by reducing the allowable growth:

a. If the district cost per pupil exceeds the state cost per pupil.

b. If in the committee's judgment the district cost is unreasonably high in relation to the comparative cost factors of similar districts, even if the district cost per pupil does not exceed the state cost per pupil.

5. If a district has unusual circumstances, creating an unusual need for additional funds, including but not limited to the following circumstances, the committee may grant supplemental aid to the district from any funds appropriated to the department of public instruction for the use of the school budget review committee for this purpose, and such aid shall be miscellaneous income and shall not be included in

district cost; or may establish a modified allowable growth for the district by increasing its allowable growth; or both:

- a. Any unusual increase or decrease in enrollment.
 - b. Unusual natural disasters.
 - c. Unusual transportation problems and for which the per pupil transportation costs are substantially higher than the state average per pupil transportation costs due to sparsity of the population, topographical factors, and other obstacles which hinder the efficient transportation of pupils.
 - d. Unusual initial staffing problems.
 - e. The closing of a nonpublic school, wholly or in part.
 - f. Substantial reduction in miscellaneous income due to circumstances beyond the control of the district.
 - g. Unusual necessity for additional funds to permit continuance of a course or program which provides substantial benefit to pupils.
 - h. Unusual need for a new course or program which will provide substantial benefit to pupils, if the district establishes such need and the amount of necessary increased cost.
 - i. Unusual need for additional funds for special education or compensatory education programs.
 - j. Year-round or substantially year-round attendance programs which apply toward graduation requirements, including but not limited to trimester or four-quarter programs. Enrollment in such programs shall be adjusted to reflect equivalency to normal school year attendance.
 - k. Severe hardship due to the exclusion of miscellaneous income from computations under this chapter. For the school year beginning July 1, 1973, the committee shall increase the district's allowable growth to the extent necessary to prevent such hardship.
 - l. Transportation equipment needs which become necessary because of the furnishing of transportation to nonpublic school pupils under chapter 285.
 - m. Enrollment decrease caused by the availability of transportation to nonpublic school pupils in a district.
 - n. Costs of special education programs and services for children requiring special education who are living in a state-supported institution, charitable institution, or licensed boarding home which does not maintain a school and the child has not been counted in the weighted enrollment under section 281.9.
 - o. Any unique problems of districts to include minority problems, vandalism, civil disobedience and other costs incurred by school districts.
6. If a nonpublic school closes wholly or in part, the committee may authorize an increase in the district general fund tax levy, but only to the extent necessary to cover the cost of absorbing the former nonpublic school pupils into the public school system. The school board shall establish the amount of necessary increased cost to the satisfaction of the school budget review committee before an increase in tax levy is authorized.
7. The committee may authorize a district to spend a reasonable and specified amount from its unexpended cash balance for the purpose or purposes of furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the district have approved a bond issue as provided by law or a tax as provided in chapter 278 and for major building repairs as defined in section 297.5. No other expenditure, including but not limited to expenditures for salaries or recurring costs, shall be authorized under this subsection. Expenditures authorized under this subsection shall not be included in allowable growth or district cost, and the portion of the unexpended cash balance which is authorized to be spent shall be regarded as if it were miscellaneous income. Any part of such amount which is not actually spent for the authorized purpose shall revert to its former status as part of the unexpended cash balance.

8. The committee may approve or modify the initial base year district cost of any district which changes accounting procedures.

9. When the committee makes a decision under subsections 3 to 8, it shall make all necessary changes in the district cost, budget, and tax levy. It shall give written notice of its decision, including all such changes, to the school board through the state comptroller.

10. All decisions by the committee under this chapter shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter. All such policies of general application shall be stated in rules adopted in accordance with chapter 17A. The committee shall take into account the intent of this chapter to equalize educational opportunity, to provide a good education for all the children of Iowa, to provide property tax relief, to decrease the percentage of school costs paid from property taxes, and to provide reasonable control of school costs. The committee shall also take into account the amount of funds available.

11. Failure by any school district to provide information or appear before the committee as requested for the accomplishment of review or hearing shall constitute justification for the committee to instruct the state comptroller to withhold any state aid to that district until the committee's inquiries are satisfied completely.

12. The committee shall review the recommendations of the superintendent of public instruction relating to the special education weighting plan, and shall establish a weighting plan for each school year after the school year commencing July 1, 1975, and report the plan to the superintendent of public instruction.

13. The committee may recommend that two or more school districts jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities as specified in section 280.14.

14. For the budget school year beginning July 1, 1982 and succeeding school years, as soon as possible following June 30 of the base year, the school budget review committee shall determine for each school district the balance of funds, whether positive or negative, raised for special education instruction programs under the special education weighting plan established in section 281.9. The committee shall certify the balance of funds for each school district to the state comptroller.

a. If the amount certified for a school district to the state comptroller under this subsection for the base year is positive, the state comptroller shall subtract the amount of the positive balance from the amount of state aid remaining to be paid to the district during the budget year. If the positive amount exceeds the amount of state aid that remains to be paid to the district, the school district shall pay the remainder on a quarterly basis prior to June 30 of the budget year to the state comptroller from other funds received by the district. The state comptroller shall determine the amount of the positive balance that would have been local property tax revenues and shall increase the district's total state school aids available under this chapter for the next following budget year by the amount so determined and shall reduce the district's tax levy computed under section 442.9 for the next following budget year by the amount necessary to compensate for the increased state aid.

b. If the amount certified for a school district to the state comptroller under this subsection for the base year is negative, the state comptroller shall determine the amount of the deficit that would have been state aid and the amount that would have been property taxes for each eligible school district.

For the budget school year beginning July 1, 1982 and each subsequent school year, there is appropriated from the general fund of the state to the school budget review committee an amount equal to the state aid portion of five percent of the receipts for special education instruction programs in each district that has a positive balance determined under paragraph "a" for the base year, or the state aid portion of the positive balance determined under paragraph "a" for the base year, whichever is less, totaled on a statewide basis, to be used for supplemental aid payments to school

districts. Except as otherwise provided in this paragraph, supplemental aid paid to a district is equal to the state aid portion of the district's deficit balance. The school budget review committee shall direct the state comptroller to make the payments to school districts under this paragraph.

A school district is eligible to receive supplemental aid payments during the budget year if the school district certifies to the school budget review committee that for the year following the budget year it will request the school budget review committee to instruct the state comptroller to increase the district's allowable growth and will fund the allowable growth increase either by using moneys from its unexpended cash balance to reduce the district's property tax levy or by using cash reserve moneys to equal the amount of the deficit that would have been property taxes and any part of the state aid portion of the deficit not received as supplemental aid. The state comptroller shall make the necessary adjustments to the school district's budget to provide the additional allowable growth and shall make the supplemental aid payments.

If the amount appropriated under this paragraph is insufficient to make the supplemental aid payments, the state comptroller shall prorate the payments on the basis of the amount appropriated.

15. Annually the school budget review committee shall review the amount of property tax levied by each school district for a cash reserve authorized in section 298.10. If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high, the committee shall instruct the state comptroller to reduce that district's tax levy computed under section 442.9 for the following budget year by the amount the cash reserve levy is deemed excessive. A reduction in a district's property tax levy for a budget year under this subsection does not affect the district's authorized budget.

(83 Acts, ch 191, § 24, 25, 27) HF 184

Effective April 14, 1983

Subsection 5, paragraph p struck

Subsection 14 struck and rewritten

442.26 Appropriations. There is hereby appropriated each year from the general fund of the state an amount necessary to pay the state school foundation aid.

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on June 15 of the budget year and the installments shall be as nearly equal as possible as determined by the state comptroller, taking into consideration the relative budget and cash position of the state resources. However, the state aids paid to school districts under section 442.28 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year and state aids paid to school districts under section 442.38 shall be paid in monthly installments beginning on February 15 and ending on June 15 of a budget year.

All moneys received by a school district from the state under the provisions of this chapter shall be deposited in the general fund of the school district, and may be used for any school general fund purpose.

(83 Acts, ch 172, § 10) SF 540

Effective June 4, 1983

Unnumbered paragraph 2 struck and rewritten

(83 Acts, ch 185, § 41, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

Unnumbered paragraph 2 struck and rewritten; identical amendments

442.31 Gifted and talented children. For the school year beginning July 1, 1981 and succeeding school years, boards of school districts, individually or jointly with the boards of other school districts, requesting to use additional allowable growth for gifted and talented children programs, may annually submit program

plans for gifted and talented children programs and budget costs, including requests for additional allowable growth for funding the programs, to the department of public instruction and to the applicable gifted and talented children advisory council, if an advisory council has been established, as provided in this chapter. A district shall not identify more than three percent of its budget enrollment for the budget year as gifted and talented if the district is requesting to use additional allowable growth to finance the program.

The parent or guardian of a pupil may request that a gifted and talented children program be established for pupils who qualify as gifted and talented children under section 442.33, including demonstrated achievement or potential ability in a single subject area.

The department shall employ a consultant for gifted and talented children programs.

The department of public instruction shall adopt rules under chapter 17A relating to the administration of sections 442.31 to 442.35, 442.40 and 442.41. The rules shall prescribe the format of program plans submitted under section 442.32 and shall require that programs fulfill specified objectives. The department shall encourage and assist school districts to provide programs for gifted and talented children whether or not additional allowable growth is requested under this chapter.

(83 Acts, ch 101, § 89) SF 136

Unnumbered paragraph 4 amended

442.39 Supplementary weighting plan. In order to provide additional funds for school districts which send their resident pupils to another school district or to an area school for classes, which jointly employ and share the services of teachers under section 280.15, or which use the services of a teacher employed by another school district, a supplementary weighting plan for determining enrollment is adopted as follows:

1. Pupils in a regular curriculum attending all their classes in the district in which they reside and taught by teachers employed by that district, are assigned a weighting of one.

2. Pupils attending classes in another school district or an area school, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of one plus one-tenth times the percent of the pupil's school day during which the pupil attends classes in another district or area school, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district.

3. A pupil eligible for the weighting plan provided in section 281.9 is not eligible for the weighting plan provided in this section.

4. For the school year beginning July 1, 1983 and succeeding school years, a school district receiving additional funds under subsection 2 for its pupils at the ninth grade level and above that are enrolled in sequential mathematics courses at the advanced algebra level and above; chemistry, advanced chemistry, physics or advanced physics courses; or foreign language courses at the second year level and above shall have an additional weighting of one pupil added to its total.

(83 Acts, ch 185, § 42, 43, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

Unnumbered paragraph 1 amended

Subsection 2 amended

(83 Acts, ch 184, § 3, 15) HF 532

Effective June 15, 1983

NEW subsection 4

442.44 Appropriation for special courses. The state comptroller shall pay to each school district in this state an amount equal to fifty dollars times the sum of the number of pupils enrolled for the entire school year on a full-time equivalent

basis in foreign language courses at the first-year level and twenty-five dollars times the sum of the number of pupils enrolled for the entire school year on a full-time equivalent basis in sequential mathematics courses at the advanced algebra level and above and in chemistry, advanced chemistry, physics and advanced physics courses.

Payment for a budget year shall be determined on the basis of the full-time equivalent enrollment in the courses for the base year.

The department of public instruction shall adopt rules under chapter 17A to carry out this section.

For the school year beginning July 1, 1984 and each succeeding school year, there is appropriated from the general fund of the state to the state comptroller an amount sufficient to make the payments to school districts required by this section. Moneys received by a school district under this section are miscellaneous income. Moneys received by a school district for pupils enrolled in science and mathematics courses shall be used only for purchase of equipment and supplies.

(83 Acts, ch 184, § 4, 15) HF 532

Effective June 15, 1983

NEW section

442.51 Programs for returning dropouts. For the school year beginning July 1, 1984 and succeeding school years, boards of school districts, individually or jointly with boards of other school districts, requesting to use additional allowable growth for programs for returning dropouts, may annually submit comprehensive program plans for the programs and budget costs, including requests for additional allowable growth for funding the programs, to the department of public instruction as provided in this chapter. In addition to the requirements for program plans listed in section 442.32, the program plans shall include:

1. A provision for dropout prevention and integration of dropouts into the educational program of the district.
2. A provision for identifying dropouts.
3. A program for returning dropouts.

Program plans for dropouts shall identify the parts of the plan that will be implemented first upon approval of the application. If a district is requesting to use additional allowable growth to finance the program, it shall not identify more than five percent of its budget enrollment for the budget year as returning dropouts.

(83 Acts, ch 185, § 44, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

NEW section

442.52 Defined. "Returning dropouts" are resident pupils who have been enrolled in a public or nonpublic school in any of grades seven through twelve who withdrew from school for a reason other than transfer to another school or school district and who subsequently enrolled in public school in the district.

(83 Acts, ch 185, § 45, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

NEW section

442.53 Plans for returning dropouts. The board of directors of a school district requesting to use additional allowable growth for programs for returning dropouts shall submit applications for approval for the programs to the department not later than November 1 preceding the fiscal year during which the program will be offered. The department shall review the program plans and shall prior to January 15 either grant approval for the program or return the request for approval with comments of the department included. An unapproved request for a program may be resubmitted with modifications to the department not later than February 1. Not later than February 15, the department shall notify the state comptroller and the school budget review committee of the names of the school districts for which the

programs using additional allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved program.

(83 Acts, ch 185, § 46, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

NEW section

442.54 Funding for programs for returning dropouts. The budget of an approved program for returning dropouts for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 442.7. Annually, the state comptroller shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the program for returning dropouts for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.

(83 Acts, ch 185, § 47, 62) HF 562

Effective July 1, 1983 for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1984

NEW section

CHAPTER 444

TAX LEVIES

444.2 Amounts certified in dollars. When an authorized tax rate within a taxing district, including townships, school districts, cities and counties, has been thus determined as provided by law, the officer or officers charged with the duty of certifying the authorized rate to the county auditor or board of supervisors shall, before certifying the rate, compute upon the adjusted taxable valuation of the taxing district for the preceding fiscal year, the amount of tax the rate will raise, stated in dollars, and shall certify the computed amount in dollars and not by rate, to the county auditor and board of supervisors.

(83 Acts, ch 101, § 90) SF 136

Amended

444.5 Interpretative clause. Repealed by 83 Acts, ch 101, § 129. (SF 136)

CHAPTER 445

COLLECTION OF TAXES

445.5 Receipt. The treasurer shall upon request, make out and deliver to the taxpayer a receipt, stating the time of payment, the description and assessed value of each parcel of land, and the assessed value of personal property, the amount of each kind of tax, the interest on each and costs, if any, giving a separate receipt for each year. The treasurer shall make the proper entries of the payments on the books or other records approved by the state auditor. The receipt shall be in full of the first or second half or all of the person's taxes for that year. Persons whose real property taxes are delinquent may pay to the county treasurer part of the delinquent real property taxes and the county treasurer shall accept payment of part of these delinquent taxes provided that the amount of the payment is equal to the amount of the installment that has been delinquent the longest plus penalties and interest assessed on that delinquent installment. The payment shall not be permitted if taxes have been sold under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under section 446.18.

(83 Acts, ch 156, § 1, 2) SF 23

Effective May 27, 1983

Amended

445.52 Interest and penalties — apportionment — compensation of collectors. The interest and penalty on delinquent taxes collected shall be apportioned to the county, and the amount allowed as compensation to delinquent tax collectors shall be paid by the county.

(83 Acts, ch 123, § 181, 209) HF 628

Amended

CHAPTER 446

TAX SALE

446.7 Annual tax sale. Annually, on the third Monday in June the treasurer shall offer at his office at public sale all lands, city lots, or other real property on which taxes of any description for the preceding fiscal year or years are delinquent, which sale shall be made for the total amount of taxes, interest, and costs due and unpaid thereon, including all prior suspended taxes, provided, however, that no property, against which the county holds a tax sale certificate, shall be offered or sold. No interest or penalty on suspended taxes shall be included in the sale price, except that six percent interest per annum from the date of suspension shall be included as to taxes suspended under the provisions of section 427.8.

Property of municipal and political subdivisions of the state of Iowa and property held by a city or county agency or the Iowa housing finance authority for use in an Iowa homesteading project, shall not be offered or sold at tax sale and a tax sale of that property is void from its inception. When delinquent taxes are owing against property owned or claimed by a municipal or political subdivision of the state of Iowa, or property held by a city or county agency or the Iowa housing finance authority for use in an Iowa homesteading project, the treasurer shall give notice to the governing body of the agency, subdivision or authority which shall then pay the amount of the due and delinquent taxes. If the governing body fails to pay the taxes, the board of supervisors shall abate the taxes as provided in chapters 427 and 445 and section 569.8.

(83 Acts, ch 123, § 182, 209) HF 628

Unnumbered paragraph 2 amended

(83 Acts, ch 101, § 91) SF 136

See Code editor's note to section 12.10 at the end of this Supplement

Unnumbered paragraph 2 amended

CHAPTER 447 TAX REDEMPTION

447.9 Notice of expiration of right of redemption. After two years and nine months from the date of sale, or after nine months from the date of a sale made under the provisions of section 446.18, 446.38 or 446.39, the holder of the certificate of purchase may cause to be served upon the person in possession of the real estate, and also upon the person in whose name the real estate is taxed, if the person resides in the county where the land is situated, in the manner provided for the service of original notices, a notice signed by the certificate holder or the certificate holder's agent or attorney, stating the date of sale, the description of the property sold, the name of the purchaser, and that the right of redemption will expire and a deed for the land be made unless redemption is made within ninety days from the completed service of the notice. When the notice is given by a county as a holder of a certificate of purchase the notice shall be signed by the county treasurer, and when given by a city, it shall be signed by the city officer designated by resolution of the council. When the notice is given by the Iowa housing finance authority or a city or county agency holding the property as part of an Iowa homesteading project,* it shall be signed on behalf of the agency or authority by one of its officers, as authorized in rules of the agency or authority. Service of the notice shall also be made by certified mail on any mortgagee or assignee of record, whether resident or nonresident of the county, if the mortgagee's or assignee's address is disclosed by the recorded instrument or by a certificate showing the address of the mortgagee or assignee duly filed with the recorder, or the state of Iowa in case of an old-age assistance lien by service upon the state department of human services. The notice shall also be served on any city where the real estate is situated.

(83 Acts, ch 96, § 157, 159) SF 464

*§ 220.14

Amended

CHAPTER 448 TAX DEED

448.2 Form. Deeds executed by the treasurer shall be substantially in the following form:

KNOW ALL MEN BY THESE PRESENTS, that the following described real property: (Here follows the description), situated in the county of and state of Iowa, was subject to taxation for the year (or years) A.D., and the taxes assessed thereon for the year (or years) stated remained due and unpaid at the date of the sale; and the treasurer of the county, on the day of, A.D., by virtue of the authority vested by law in the treasurer, at (an adjournment of) the sale begun and publicly held on the third Monday of June, A.D., exposed to public sale at the office of the county treasurer in the county named, in substantial conformity with all the requirements of the statute, the real property described, for the payment of the taxes, interest and costs then due and remaining unpaid on the property, and at that time and place A B, of the county of and state of, offered to pay the sum of dollars and cents, being the whole amount of taxes, interest and costs then due and remaining unpaid on the property, for (here follows the description of the property sold) which was the least quantity bid for, and payment of that sum was made by that person to the treasurer, the property was stricken off to that person at that price; and A B did, on the day of, A.D., assign the certificate of the sale of the property and all right, title and interest to the property to E F of the county of and state of; and by the affidavit of, filed in the treasurer's office

on the day of, A.D., it appears that notice has been given more than ninety days before the execution of this deed to and of the expiration of the time of redemption allowed by law; and three years have elapsed since the date of the sale, and the property has not been redeemed:

Now, I, C D, treasurer of said county, for the consideration of said sum to the treasurer paid as aforesaid and by virtue of law, have granted, bargained and sold, and by these presents do grant, bargain and sell to the said A B (or E F), his heirs and assigns, the real property hereinbefore described, to have and to hold unto him (or E F), his heirs and assigns, forever; subject, however, to all the rights of redemption provided by law. In witness whereof, I, C D, treasurer as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name on this day of, A. D.

State of Iowa, }
..... County. } ss.

I hereby certify that before me,, in and for said county, personally appeared the above named C D, treasurer of said county, personally known to me to be the treasurer of said county at the date of the execution of the above conveyance, and to be the identical person whose name is affixed to and who executed the above conveyance as treasurer of said county, and acknowledged the execution of the same to be his voluntary act and deed as treasurer of said county, for the purposes therein expressed.

Given under my hand (and seal) this day of, A. D.

(83 Acts, ch 101, § 92) SF 136
Unnumbered paragraph 2 amended

CHAPTER 450 INHERITANCE TAX

450.1 "Person" and "personal representative" defined — authority of county attorney. In the construction of this chapter the word "person" shall include plural as well as singular, and artificial as well as natural persons. This chapter shall not be construed to confer upon a county attorney authority to represent the state in any case, and he shall represent the department of revenue only when especially authorized by it to do so.

For purposes of this chapter, unless the context otherwise requires, "personal representative" means an executor, administrator, or trustee as each is defined in section 633.3.

(83 Acts, ch 177, § 2, 38) HF 635
Applies to estates of persons dying on or after July 1, 1983
NEW unnumbered paragraph 2

450.4 Exemptions. The tax imposed by this chapter shall not be collected:

1. When the entire estate of the decedent does not exceed the sum of ten thousand dollars after deducting the liabilities, as defined in this chapter.
2. When the property passes in any manner to societies, institutions or associations incorporated or organized under the laws of this state for charitable, educational, or religious purposes, and which are not operated for pecuniary profit, or to cemetery associations, including humane societies or to resident trustees for such uses within this state, or to organizations composed wholly of veterans of any war of the United

States of America; provided, however, that this exemption shall also include property passing to any society, institution or association incorporated or organized under the laws of any other state for charitable, educational or religious purposes, and which are not operated for pecuniary profit or to trustees for such uses in such other state if under the laws of such state no tax would be imposed upon the passing of property to such institutions, societies or associations incorporated or organized under the laws of this state or to trustees for such uses in this state or to any organization composed wholly of veterans of any war of the United States of America.

3. When the property passes to public libraries or public art galleries within this state, open to the use of the public and not operated for gain, or to hospitals within this state, or to trustees for such uses within this state, or to municipal corporations for purely public purposes.

4. Bequests for the care and maintenance of the cemetery or burial lot of the decedent or his family, and bequests not to exceed five hundred dollars in any estate of a decedent for the performance of a religious service or services by some person regularly ordained, authorized, or licensed by some religious society to perform such service, which service or services are to be performed for or in behalf of the testator or some person named in his last will.

5. On the value of that portion of installment payments which will be includable as net income as defined in section 422.7 as received by a beneficiary under an annuity which was purchased under an employees pension or retirement plan.

(83 Acts, ch 177, § 3, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Subsection 1 amended

450.5 Liability for tax. Any person becoming beneficially entitled to any property or interest in property by any method of transfer as specified in this chapter, and all personal representatives and referees of estates or transfers taxable under this chapter, are respectively liable for all taxes to be paid by them respectively.

(83 Acts, ch 177, § 4, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.7 Lien of tax.

1. The tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following limitations:

a. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has not been administered in this state are no longer a lien against the property twenty years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests which have not been finally vested in possession for at least ten years.

b. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has been administered in this state are no longer a lien against the property ten years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.

2. Notice of the lien is not required to be recorded. The rights of the state under the lien have priority over all subsequent mortgages, purchases, or judgment creditors; and a conveyance after the decedent's death of the property subject to a lien does not discharge the property except as otherwise provided in this chapter. The department of revenue may release the lien by filing in the office of the clerk of the court in the county where the property is located, the decedent owner died, or the estate is pending or was administered, one of the following:

a. A receipt in full payment of the tax.

b. A certificate of nonliability for the tax as to all property reported in the estate.

c. A release or waiver of the lien as to all or any part of the property reported in the estate, which shall release the lien as to the property designated in the release or waiver.

3. The sale, exchange, mortgage, or pledge of property by the personal representative pursuant to a testamentary direction or power, pursuant to section 633.387, or under order of court, divests the property from the lien of the tax. The proceeds from that sale, exchange, mortgage, or pledge shall be held by the personal representative subject to the same priorities for the payment of the tax as existed with respect to the property before the transaction, and the personal representative is personally liable for payment of the tax to the extent of the proceeds.

(83 Acts, ch 177, § 5, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Subsection 3 amended

450.12 Liabilities deductible.

1. Subject to the limitations in subsections 2 and 3, there shall be deducted from the gross value of the estate only the liabilities defined as follows:

a. The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children granted by the probate court or its judge, court costs, the costs of appraisal made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee in a reasonable amount to be approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses.

b. A liability shall not be deducted unless the personal representative certifies that it has been paid or, if not paid, the director of revenue is satisfied that it will be paid.

2. If the decedent's gross estate includes property with a situs outside of Iowa, the liabilities deductible under subsection 1 shall be prorated on the basis that the gross value of property with a situs in Iowa bears to the total gross estate. Only the Iowa portion of the liabilities shall be deductible in computing the tax imposed by this chapter. However, a liability secured by a lien on property shall be allocated to the state where the property has a situs and shall not be prorated except to the extent the liability exceeds the value of the property.

3. If a liability under subsection 1 is secured by property, or a portion of property, not included in the decedent's gross estate, only that portion of the liability attributable to property or a portion of property included in the decedent's gross estate is deductible in computing the tax imposed by this chapter.

(83 Acts, ch 177, § 6, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Struck and rewritten

450.13 Inheritance tax and lien book. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.14 Report required — blanks. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.15 Copy for department of revenue. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.17 Conveyance — effect. When real estate or an interest in real estate is subject to tax, a conveyance does not discharge the real estate conveyed from the lien except as provided in section 450.7.

(83 Acts, ch 177, § 7, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.18 Acceptance of final report. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.19 Record of estates by department. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.21 Administration on application of director. If, upon the death of any person leaving an estate that may be liable to a tax under this chapter, a will disposing of the estate is not offered for probate, or an application for administration made within four months from the time of the decease, the director of revenue may, at any time thereafter, make application to the proper court, setting forth that fact and requesting that a personal representative be appointed, and the court shall appoint a personal representative to administer upon the estate.

(83 Acts, ch 177, § 8, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.22 Administration avoided. When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter, desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and regular probate proceedings are not had, they or one of them shall file under oath the inventories required by section 633.361 and reports and perform all the duties required by this chapter of the personal representative and file the inheritance tax return. Proceedings for the collection of the tax when a personal representative is not appointed, shall conform as nearly as may be to the provisions of this chapter in other cases.

(83 Acts, ch 177, § 9, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.24 Appraisers. In each county the court shall, on or before January 15 of each year, appoint three competent residents and freeholders of the county to act as appraisers of the real property within its jurisdiction which is charged or sought to be charged with an inheritance tax. The appraisers shall serve for one year, and until their successors are appointed and qualified. They shall each take an oath to faithfully and impartially perform the duties of the office, but shall not be required to give bond. They shall be subject to removal at any time at the discretion of the court. The court may also in its discretion, either before or after the appointment of the regular appraisers, appoint other appraisers to act in any given case. Vacancies occurring otherwise than by expiration of term shall be filled by appointment of the court. A person interested in any manner in the estate to be appraised shall not serve as an appraiser of that estate.

(83 Acts, ch 177, § 10, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.27 Commission to appraisers. When an appraisal of real estate is requested by the department of revenue, as provided in section 450.37, or is otherwise required by this chapter, the clerk shall issue a commission to the appraisers,

who shall fix a time and place for appraisal, except that if the only interest that is subject to tax is a remainder or deferred interest upon which the tax is not payable until the determination of a prior estate or interest for life or term of years, the clerk shall not issue the commission until the determination of the prior estate, except at the request of the department of revenue when the parties in interest seek to remove an inheritance tax lien.

(83 Acts, ch 177, § 11, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.30 Real property in different counties. If real property is located in more than one county, the appraisers of the county in which the estate is being administered may appraise all real estate, or those of the several counties may serve for the real property within their respective counties or other appraisers be appointed as the district court may direct.

(83 Acts, ch 177, § 12, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.32 Hearing — order. If upon the hearing the court finds the amount at which the real property is appraised is its value on the market in the ordinary course of trade and the appraisal was fairly and in good faith made, it shall approve the appraisal. If the court finds that the appraisal was made at a greater or lesser sum than the value of the real property in the ordinary course of trade, or that it was not fairly or in good faith made, it shall set aside the appraisal. Upon the appraisal being set aside, the court shall fix the value of the real property of the estate for inheritance tax purposes and the valuation fixed is that upon which the tax shall be paid, unless an appeal is taken from the order of the court as provided for in this chapter.

(83 Acts, ch 177, § 13, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.36 Appraisal of other property. If there is an estate or real property subject to tax and the records in the clerk's office do not disclose that there may be a tax due under this chapter, the persons interested in the real property shall report the matter to the department of revenue with a request that the real property be appraised.

(83 Acts, ch 177, § 14, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.37 Value for computing the tax.

1. Unless the value has been determined under chapter 450B, the tax shall be computed based upon one of the following:

a. The fair market value of the property in the ordinary course of trade determined under subsection 2.

b. The alternate value of the property, if the personal representative so elects, that has been established for federal estate tax purposes under section 2032 of the Internal Revenue Code of 1954 as defined in section 422.4. The election shall be exercised on the return by the personal representative or other person signing the return, within the time prescribed by law for filing the return or before the expiration of any extension of time granted for filing the return.

2. Fair market value in the ordinary course of trade shall be established by agreement between the department of revenue, the personal representative, and the persons who have an interest in the property.

a. If an agreement has not been reached on the fair market value of real property in the ordinary course of trade, the director of revenue has thirty days after the

return is filed to request an appraisal under section 450.27. If an appraisal request is not made within the thirty-day period, the value listed on the return is the agreed value of the real property.

b. If an agreement is not reached on the fair market value of personal property in the ordinary course of trade, the personal representative or any person interested in the personal property may appeal to the director of revenue for a revision of the department of revenue's determination of the value and after the appeal hearing may seek judicial review of the director's decision. The provisions of section 450.94, subsection 3, relating to appeal of a determination of the department and review of the director's decision apply to an appeal and review made under this subsection.

(83 Acts, ch 177, § 15, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Struck and rewritten

450.38 Deduction of debts. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.39 Valuation established by inventory. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.44 Remainders — valuation. When a person whose estate over and above the amount of that person's liabilities, as defined in this chapter, exceeds the sum of ten thousand dollars, bequeaths, devises, or otherwise transfers real property to or for the use of persons exempt from the tax imposed by this chapter, during life or for a term of years and the remainder to persons not thus exempt, this property, upon the determination of the estate for life or years, shall be valued at its then actual market value from which shall be deducted the value of any improvements on it made by the person who owns the remainder interest during the time of the prior estate, to be determined as provided in section 450.37, subsection 1, paragraph "a", and the tax on the remainder shall be paid by the person who owns the remainder interest as provided in section 450.46.

(83 Acts, ch 177, § 16, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.45 Life and term estates — valuation. When an estate or interest for life or term of years in real property is given to a party other than those especially exempt by this chapter, the property shall be valued as provided in section 450.37 as is provided in ordinary cases, and the party entitled to the estate or interest shall, within nine months from the death of decedent owner, pay the tax, and in default the court shall order the estate or interest, or as much as necessary to pay the tax, penalty, and interest, to be sold.

(83 Acts, ch 177, § 17, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.46 Deferred estate — valuation. Upon the determination of any prior estate or interest, when the remainder or deferred estate or interest or any part of it is subject to tax and the tax upon the remainder or deferred interest has not been paid, the persons entitled to the remainder or deferred interest shall immediately report to the department of revenue the fact of the determination of the prior estate, and upon receipt of the report, or upon information from any source, of the determination of any prior estate when the remainder interest has not been valued for the purpose of assessing tax, the property shall be valued as provided in like cases in section 450.44 and the tax upon the remainder interest shall be paid by the person who owns the remainder interest within nine months after the determination of the prior estate. If the tax is not paid within this time the court shall then order the property, or as much as necessary to pay the tax, penalty, and interest, to be sold.

(83 Acts, ch 177, § 18, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.47 Life and term estates in personal property. When an estate or interest for life or term of years in personal property is given to one or more persons other than those especially exempt by this chapter and the remainder or deferred estate to others, the property devised or conveyed shall be valued under section 450.37 as provided in ordinary estates and the value of the estates or interests devised or conveyed shall be determined as provided in section 450.51, and the tax upon the estates or interests liable for the tax shall be paid to the department of revenue from the property valued or by the persons entitled to the estate or interest within nine months from the death of the testator, grantor, or donor. However, payment of the tax upon any deferred estate or remainder interest may be deferred until the determination of the prior estate by the giving of a good and sufficient bond as provided in section 450.48.

(83 Acts, ch 177, § 19, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.51 Annuities — life and term estates. The value of any annuity, deferred estate, or interest, or any estate for life or term of years, subject to inheritance tax shall be determined for the purpose of computing the tax by the use of current, commonly used tables of mortality and actuarial principles pursuant to regulations prescribed by the director of revenue. The taxable value of annuities, life or term, deferred, or future estates, shall be computed at the rate of four percent per annum of the established value of the property in which the estate or interest exists or is founded.

(83 Acts, ch 177, § 20, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.53 Duty of personal representatives to pay tax. All personal representatives, except guardians and conservators, and other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, shall file an inheritance tax return with a copy of any federal estate tax return and other documents required by the director which may reasonably tend to prove the amount of tax due, and shall pay to the department of revenue the amount of the tax due from any devisee, grantee, donee, heir, or beneficiary of the decedent, except in cases where payment of the tax is deferred until the determination of a prior estate, in which cases the owner of the future interest shall file a supplemental inheritance tax return and pay to the department of revenue the tax due. The inheritance tax returns shall be in the form prescribed by the director.

(83 Acts, ch 177, § 21, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.54 Sale to pay tax. Personal representatives or the director of revenue, may sell as much of the property of the decedent as will enable them to pay the tax, in the same manner as provided by law for the sale of that property for the payment of debts of testators or intestates.

(83 Acts, ch 177, § 22, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.55 Means to collect tax. Sections 422.26 and 422.30, pertaining to the lien except the requirements of recording, collection of tax, jeopardy assessments, and distress warrants, apply to the unpaid tax, penalty, and interest imposed under this chapter. In addition the director of revenue may bring, or cause to be brought in the director's name of office, suit for the collection of the tax, penalty, interest, and costs, against the personal representative or against the person entitled to property subject to the tax, or upon any bond given to secure payment of the tax,

either jointly or severally, and obtaining judgment may cause execution to be issued as is provided by statute in other cases. The proceedings shall conform as nearly as may be to those for the collection of ordinary debt by suit.

(83 Acts, ch 177, § 23, 38, 39) HF 635

Applies to taxes, penalties, and interest still owing on July 1, 1983 and to those becoming due after that date

Amended

450.56 Time of payment extended. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

450.57 Tax deducted from legacy or collected. Every personal representative or referee having in charge or trust any property of an estate subject to tax which is made payable by the personal representative or referee, shall deduct the tax from the property or shall collect the tax from the legatee or person entitled to the property and pay the tax to the department of revenue, and the personal representative or referee shall not deliver any specific legacy or property subject to tax to any person until the personal representative or referee has collected the tax.

(83 Acts, ch 177, § 24, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.58 Final settlement to show payment. The final settlement of the account of a personal representative shall not be accepted or allowed unless it shows, and the court finds, that all taxes imposed by this chapter upon any property or interest in property that is made payable by the personal representative and to be settled by the account, has been paid, and that the receipt of the department of revenue for the tax has been obtained as provided in section 450.64. Any order contravening this section is void.

(83 Acts, ch 177, § 25, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.61 Bequests to personal representatives. If a decedent appoints one or more personal representatives and, in lieu of their allowance or commission, makes a bequest or devise of property to them which would otherwise be liable to tax, or appoints them residuary legatees, and the bequests, devises, or residuary legacies exceed the statutory fees as compensation for their services, the excess is liable to tax.

(83 Acts, ch 177, § 26, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.62 Legacies charged upon real estate. If legacies subject to tax are charged upon or payable out of real estate, the heir or devisee, before paying the tax, shall deduct the tax from it and pay it to the personal representative or department of revenue, and the tax shall remain a charge against and be a lien upon the real estate until it is paid. Payment of the tax shall be enforced by the personal representative or director of revenue as provided in this chapter.

(83 Acts, ch 177, § 27, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.64 Receipt showing payment. Upon payment of the tax in full the department of revenue shall forthwith transmit a receipt to the person designated by the taxpayer signing the return showing payment of the tax. If the tax is not paid in full, a taxpayer whose tax liability is paid in full may request a receipt as to that taxpayer's share of the tax.

(83 Acts, ch 177, § 28, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.71 Proof of amount of tax due. Before issuing a receipt for the tax, the director of revenue may demand from personal representatives or beneficiaries information as necessary to verify the correctness of the amount of the tax and interest, and when this demand is made they shall send to the director of revenue certified copies of wills, deeds, or other papers, or of those parts of their reports as the director may demand, and upon the refusal or neglect of the parties to comply with the demand of the director, the clerk of the court shall comply with the demand, and the expenses of making copies and transcripts shall be charged against the estate, as are other costs in probate, or the tax may be assessed without deducting liabilities for which the estate is liable.

(83 Acts, ch 177, § 29, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.72 Extension of time of appraisement. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.73 Heirs at law to make report. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.86 Securities and assets held by bank, etc. A safe deposit company, trust company, bank, or other institution or person holding securities or assets, exclusive of life insurance policies payable to named beneficiaries, which securities or other assets are located in a safety deposit box or other security enclosure of the decedent, after receiving knowledge of the death shall not deliver or transfer them to the transferee, joint owner, or beneficiary of the decedent unless the tax for which the securities or assets are liable under this chapter is first paid, or the payment is secured by bond as provided in this chapter. However, all 'ne contents shall be reported in writing to the department of revenue, and thereafter may be delivered to the personal representative. The director of revenue, personally or by any person duly authorized by the director, shall examine the securities or assets at the time of a proposed delivery or transfer. Failure to give written notice of the contents of the safety deposit box or other security enclosure to the department of revenue at the time of or prior to the delivery of the securities or assets to the personal representative or transferee, joint owner, or beneficiary renders the safe deposit company, trust company, bank, or other institution or person liable for the payment of the tax upon the securities or assets as provided in this chapter.

(83 Acts, ch 177, § 30, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.87 Transfer of corporation stock. If a foreign personal representative assigns or transfers any corporate stock or obligations in this state standing in the name of a decedent or in trust for a decedent liable to tax, the tax shall be paid to the department of revenue on or before the transfer; otherwise the corporation permitting its stock to be transferred is liable to pay the tax, interest, and costs, and the director of revenue shall enforce the payment of the tax, interest, and costs.

(83 Acts, ch 177, § 31, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.88 Corporations to report transfers. Every Iowa corporation organized for pecuniary profit shall, on July 1 of each year, by its proper officers under oath, make a full and correct report to the director of revenue of all transfers of its stocks made during the preceding year by any person who appears on the books of the corporation as the owner of the stock, when the transfer is made to take effect

at or after the death of the owner or transferor, and all transfers which are made by a personal representative, referee, or any person other than the owner or person in whose name the stocks appeared of record on the books of the corporation, prior to the transfer. This report shall show the name of the owner of the stocks and the owner's place of residence, the name of the person at whose request the stock was transferred, the person's place of residence and the authority by virtue of which the person acted in making the transfer, the name of the person to whom the transfer was made, and the residence of the person, together with other information the officers reporting have relating to estates of persons deceased who may have been owners of stock in the corporation. If it appears that any stock transferred is subject to tax under this chapter, and the tax has not been paid, the director of revenue shall notify the corporation in writing of its liability for the payment of the tax, and shall bring suit against the corporation as in other cases unless payment of the tax is made within sixty days from the date of notice.

This section does not apply if the lien has been released under section 450.7 or the director has issued a consent to transfer.

(83 Acts, ch 177, § 32, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.89 Foreign estates — deduction of debts. Repealed by 83 Acts, ch 177, § 37, 38. (HF 635)

Applies to estates of persons dying on or after July 1, 1983

450.90 Property in this state belonging to foreign estate. When property, real or personal, within this state belongs to a foreign estate and the foreign estate passes in part exempt from the tax imposed by this chapter and in part subject to the tax and there is not a specific devise of the property within this state to exempt persons or if it is within the authority or discretion of the foreign personal representative administering the estate to dispose of the property not specifically devised to exempt persons in the payment of liabilities owing by the decedent at the time of death, or in the satisfaction of legacies, devises, or trusts given to direct or collateral legatees or devisees or in payment of the distributive shares of any direct and collateral heirs, then the property within the jurisdiction of this state belonging to the foreign estate is subject to the tax imposed by this chapter, and the tax due shall be assessed as provided in section 450.12, subsection 2, relating to the deduction of the proportionate share of liabilities. However, if the value of the property so situated exceeds the total amount of the estate passing to other persons than those exempt from the tax imposed by this chapter, the excess is not subject to tax.

(83 Acts, ch 177, § 33, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

450.94 Final return — determination — appeal.

1. "Taxpayer" as used in this section means a person liable for the payment of tax as stated in section 450.5.

2. The taxpayer shall file an inheritance tax return on forms to be prescribed by the director of revenue. When an inheritance tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department shall notify the taxpayer of the total amount due together with any penalty and interest which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of a month and before the first day of the following month.

3. If the amount paid is greater than the correct tax, penalty and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, under the provisions of rules

prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax, penalty and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ninety days from the postmark date of the notice of determination of tax, penalty and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by certified mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

4. Payments received must be credited first to the penalty and interest accrued and then to the tax due.

(83 Acts, ch 177, § 34, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Subsection 2 amended

450.96 Contingent estates. Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation has been held in abeyance, shall be valued at their full, undiminished value when the persons entitled to the estates come into the beneficial enjoyment or possession of the estates, without diminution for or on account of any valuation previously made. When an estate, devise, or legacy can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of the divesting. When a devise, bequest, or transfer is one in part contingent, and in part vested so that the beneficiary will come into possession and enjoyment of a portion of the inheritance on or before the happening of the event upon which the possible defeating contingency is based, a tax shall be imposed and collected upon the bequest or transfer as upon a vested interest, at the highest rate possible under this chapter if no contingency existed; provided that if the contingency reduces the value of the estate or interest taxed, and the amount of tax paid is in excess of the tax for which the bequest or transfer is liable upon the removal of the contingency, the excess shall be refunded as provided in sections 450.94 and 450.95 in other cases.

(83 Acts, ch 177, § 35, 38) HF 635

Applies to estates of persons dying on or after July 1, 1983

Amended

CHAPTER 450B

QUALIFIED USE INHERITANCE TAX

450B.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Internal Revenue Code of 1954*" means the same as defined in section 422.4.
2. "*Taxpayer*" means a qualified heir liable for the inheritance tax imposed under chapter 450 on qualified real property.
3. "*Qualified real property*", "*qualified use*", "*cessation of qualified use*", and "*qualified heir*" mean the same as defined in section 2032A of the Internal Revenue Code of 1954.
4. For purposes of section 450B.1, subsection 1, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

(83 Acts, ch 179, § 18, 23) SF 386

Retroactive to tax years ending after December 31, 1982, but only with respect to commodities received for the 1983 crop year

NEW subsection 4

CHAPTER 453

DEPOSIT OF PUBLIC FUNDS

453.1 Deposits in general. All funds held in the hands of the following officers or institutions shall be deposited in banks first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in banks listed as approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories shall be a matter of public record. "Bank" means a bank or a private bank, as defined in section 524.103.

(83 Acts, ch 97, § 1, 3) SF 434

Effective May 6, 1983

Amended

(83 Acts, ch 186, § 10104, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See Code editor's note to section 12.10 at the end of this Supplement

Amended

453.7 Interest — where credited.

Exception for petroleum overcharge funds; 83 Acts, ch 202, § 20

CHAPTER 454

STATE SINKING FUND FOR PUBLIC DEPOSITS

454.2 Purpose of fund. The purpose of the fund is to secure the payment of the deposits of state, county, township, municipal, and school corporations, city utilities and combined utility systems established under chapter 388, regional libraries established under chapter 303B, and electric power agencies as defined in section 28F.2, having public funds deposited in demand or time deposits in any bank in this state, when those deposits have been made by authority of and in conformity with the direction of the local governing council or board which is by law charged with the duty of selecting depository banks for the funds.

(83 Acts, ch 97, § 2, 3) SF 434

Effective May 6, 1983

Amended

CHAPTER 455

LEVEE AND DRAINAGE DISTRICTS AND IMPROVEMENTS
ON PETITION OR BY MUTUAL AGREEMENT

455.48 Assessment for lateral ditches — reclassification of benefited lands.

1. In fixing the percentages and assessments of benefits and apportionment of costs of construction to lands benefited by lateral ditches and drains as a part of the entire improvement to be made in a drainage district, the commissioners shall ascertain and fix the percentage of benefits and apportionment of costs to the lands benefited by such lateral ditches on the same basis and in the same manner as if said lateral was, with its sublaterals, being constructed as a subdistrict as provided in this chapter, reporting separately:

a. The percentage of benefits and amount accruing to each forty-acre tract or less on account of the construction of the main ditch, drain, or watercourse including pumping plant, if any.

b. The percentage of benefits and amount accruing to each forty-acre tract or less on account of the construction of such lateral improvement.

2. When there has been a repair or improvement to a lateral ditch or drain as provided in section 455.135 and the lands benefited by the lateral have not been classified as provided in this section, the board may order a classification of the lands and the commission shall ascertain and fix the percentage of benefits and apportionment of costs to the lands benefited by such lateral ditches or drains on the same basis and in the same manner as if the lateral was with its sublaterals being constructed as a subdistrict as provided in this chapter. When this procedure is followed for the classification of any lateral ditch or drain in a given district, the board shall follow the same procedure for all other lateral ditches or drains in the district which have not been classified as prescribed in this section.

(83 Acts, ch 30, § 1) SF 239
Subsection 2 amended

455.50 Public highways and state-owned lands. When any public highway or other public land extends into or through a levee or drainage district, the commissioners to assess benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to such highway or other public land, and the board of supervisors shall assess the same against such highway and land.

Such assessments against primary highways and other state-owned lands under the jurisdiction of the state department of transportation shall be paid by the state department from the primary road fund on due certification of the amount by the county treasurer to the department, and against all secondary roads and other county owned lands under the jurisdiction of the board of supervisors, from county funds.

When any state-owned lands under the jurisdiction of the state conservation commission are situated within a levee or drainage district, the commissioners to assess benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to such lands and the board of supervisors shall assess the same against such lands.

Such assessments against lands used by the fish and game division of the state conservation commission shall be paid by the state conservation commission from the state fish and game protection fund on due certification of the amount by the county treasurer to said commission, and against lands used by the division of lands and waters from the state conservation funds.

(83 Acts, ch 123, § 183, 209) HF 628
Unnumbered paragraph 2 amended

455.57 Levy — interest. When the board has finally determined the matter of assessments of benefits and apportionment, it shall levy the assessments as fixed by it upon the lands within the district, but an assessment on a tract, parcel or lot within the district which is computed at less than two dollars shall be fixed at the sum of two dollars. All assessments shall be levied at that time as a tax and shall bear interest at not to exceed the rate permitted by chapter 74A from that date, payable annually, except as provided as to cash payments within a specified time.

(83 Acts, ch 101, § 93) SF 136

Amended

455.118 Bridges. When a levee, ditch, drain, or change of any natural water-course crosses a public highway, necessitating moving or building or rebuilding any secondary road bridge upon, or ditch or drain crossing the road, the board of supervisors shall move, build, or rebuild it, paying the costs and expenses, including construction, maintenance, repair and improvement costs, from county funds.

If the bridge or crossing be upon or across a primary or interstate road, the work aforesaid shall be done by the state department of transportation and paid for out of the primary road fund.

(83 Acts, ch 123, § 184, 209) HF 628

Unnumbered paragraph 1 amended

455.164 Preliminary expenses — how paid. If the proposed district is all in one county, the board of supervisors may pay all necessary preliminary expenses in connection with the district. If it extends into other counties, the boards of the respective counties may pay a proportion of the expenses as the work done or expenses created in each county bears to the whole amount of work done or expenses created. The amounts shall be ascertained and reported by the engineer in charge of the work and be approved by the respective boards which shall, as soon as paid, charge the amount to the district, as their interests may appear, as soon as the district is established. If the district is not established, the amounts shall be collected upon the bond or bonds of the petitioners.

(83 Acts, ch 123, § 185, 209) HF 628

Amended

CHAPTER 455A

IOWA NATURAL RESOURCES COUNCIL

Repealed by 82 Acts, ch 1199, § 96, 97, effective July 1, 1983

Repeal of ch 455A does not legalize a structure, dam, obstruction, deposit, or excavation erected or made while that chapter was in effect; 83 Acts, ch 137, § 30 (SF 368)

CHAPTER 455B

DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT

455B.105 Powers and duties of the commission. The commission shall:

1. Establish policy for the implementation of programs under its jurisdiction. The commission shall appoint advisory committees to advise the commission and the executive director in carrying out their respective powers and duties.
2. Advise, consult, and co-operate with other agencies of the state, political subdivisions, and any other public or private agency to promote the orderly, efficient, and effective accomplishment of its responsibilities.
3. Adopt, modify, or repeal rules necessary to implement this chapter and the rules deemed necessary for the effective administration of the department. When

the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more restrictive requirement. In addition, the commission shall include with its reasoning a financial impact statement detailing the general impact upon the affected parties. It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of this chapter. Rules adopted by the executive committee before January 1, 1981 shall remain effective until modified or rescinded by action of the commission.

4. Approve the departmental budget request prior to submission to the state comptroller. The commission may increase, decrease, or strike any proposed expenditure within the departmental budget request before granting approval.

5. Issue orders and directives necessary to insure integration and co-ordination of the programs administered by the department.

6. Make a concise annual report to the governor and the general assembly, which report shall contain information relating to the accomplishments and status of the programs administered by the department and include recommendations for legislative action which may be required to protect or enhance the environment or to modernize the operation of the department or any of the programs or services assigned to the department and recommendations for the transfer of powers and duties of the department as deemed advisable by the commission. The annual report shall conform to the provisions of section 17.3.

7. Approve all contracts and agreements between the department and other public or private persons or agencies.

8. Obtain an adequate public employees fidelity bond to cover those officers and employees of the department accountable for property or funds of this state.

9. Hold public hearings, except when the evidence to be received is confidential pursuant to this chapter or chapter 68A, necessary to carry out its powers and duties. The commission may issue subpoenas requiring the attendance of witnesses and the production of evidence pertinent to the hearings. A subpoena shall be issued and enforced in the same manner as provided in civil actions.

10. Upon request of at least four members of the commission before adopting or modifying a rule, the executive director shall prepare and publish with the notice required under section 17A.4, subsection 1, paragraph "a", a comprehensive estimate of the economic impact of the proposed rule or modification.

11. Appoint a water coordinator who shall coordinate requests from the public for information or assistance relating to the administration of water resources laws and programs and the resolution of water-related problems.

12. a. Adopt, by rule, procedures and forms necessary to implement the provisions of this chapter relating to permits or conditional permits. The commission may also adopt, by rule, a schedule of fees for permit and conditional permit applications and a schedule of fees which may be periodically assessed for administration of permits and conditional permits. In determining the fee schedules, the commission shall consider:

(1) The state's reasonable cost of reviewing applications, issuing permits and conditional permits, and checking compliance with the terms of the permits.

(2) The relative benefits to the applicant and to the public of permit and conditional permit review, issuance, and monitoring compliance.

It is the intention of the legislature that permit fees shall not cover any costs

connected with correcting violation of the terms of any permit and shall not impose unreasonable costs on any municipality.

(3) The typical costs of the particular types of projects or activities for which permits or conditional permits are required, provided that in no circumstances shall fees be in excess of the actual costs to the department.

b. The fees collected by the department under this subsection shall be remitted to the treasurer of state and credited to the general fund of the state.

(83 Acts, ch 137, § 1) SF 368

Subsection 3 amended

(83 Acts, ch 136, § 1) SF 355

NEW subsection 12

455B.148 Fees. Repealed by 83 Acts, ch 136, § 8. (SF 355)

455B.171 Definitions. When used in this part 1 of division III, unless the context otherwise requires:

1. "*Sewage*" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such ground water infiltration and surface water as may be present.

2. "*Industrial waste*" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.

3. "*Other waste*" means heat, garbage, municipal refuse, lime, sand, ashes, offal, oil, tar, chemicals and all other wastes which are not sewage or industrial waste.

4. "*Water pollution*" means the contamination of any water of the state so as to create a nuisance or render such water unclean, noxious or impure so as to be actually harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural or recreational use or to livestock, wild animals, birds, fish or other aquatic life.

5. "*Sewer system*" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the federal Water Pollution Control Act, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this Act. [66GA, ch 1204]

6. "*Treatment works*" means any plant, disposal field, lagoon, holding or flow-regulating basin, pumping station, or other works installed for the purpose of treating, stabilizing or disposing of sewage, industrial waste or other wastes.

7. "*Disposal system*" means a system for disposing of sewage, industrial waste and other wastes and includes sewer systems, treatment works, point sources and dispersal systems.

8. "*Federal Water Pollution Control Act*" means the federal Water Pollution Control Act of 1972, Pub. L. No. 92-500, as published in 33 U.S.C. secs. 1251-1376, as amended through December 31, 1981.

9. "*Water of the state*" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

10. "*Person*" means any agency of the state or federal government or institution thereof, any municipality, governmental subdivision, interstate body, public or private corporation, individual, partnership, or other entity and includes any officer or governing or managing body of any municipality, governmental subdivision, interstate body, or public or private corporation.

11. "*Effluent standard*" means any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, radiological and other constituents which are discharged from point sources into any water of the state including an effluent limitation, a water quality related effluent limitation, a standard of performance for a new source, a toxic effluent standard or other limitation.

12. "*Point source*" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

13. "*Pollutant*" means sewage, industrial waste or other waste.

14. "*New source*" means any building, structure, facility or installation, from which there is or may be the discharge of a pollutant, the construction of which is commenced after the publication of proposed federal rules prescribing a standard of performance which will be applicable to such source, if such standard is promulgated.

15. "*Schedule of compliance*" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any effluent standard, water quality standard, or any other requirement of this part of this division or any rule promulgated pursuant thereto.

16. "*Sewer extension*" means pipelines or conduits constituting main sewers, lateral sewers or trunk* sewers used for conducting pollutants to a larger interceptor sewer or to a point of ultimate disposal.

17. "*Water supply distribution system extension*" means any extension to the pipelines or conduits which carry water directly from the treatment facility, source or storage facility to the consumer's service connection.

18. "*Production capacity*" means the amount of potable water which can be supplied to the distribution system in a twenty-four-hour period.

19. "*Public water supply system*" means a system for the provision to the public of piped water for human consumption, if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. The term includes any source of water and any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

20. "*Maximum contaminant level*" means the maximum permissible level of any physical, chemical, biological or radiological substance in water which is delivered to any user of a public water supply system.

21. "*Private water supply*" means any water supply for human consumption which has less than fifteen service connections and regularly serves less than twenty-five individuals.

22. "*Private sewage disposal system*" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than sixteen individuals on a continuing basis, which does not discharge into the waters of the state.

(83 Acts, ch 137, § 2) SF 368

Subsections 19, 21, and 22 amended

455B.172 Administrative agency.

1. The department is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.

2. The department is the state agency designated to carry out the state responsibilities related to private water supplies and private sewage disposal systems for the protection of the health of the citizens of this state. The commission shall adopt minimum standards and provide model standards for private water supplies and private sewage disposal facilities for use of the local boards of health. Each local board of health is the agency to regulate private water supplies and private sewage

disposal systems. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities, which standards shall not be lower than the minimum standards adopted by the commission.

(83 Acts, ch 137, § 3) SF 368
Subsection 2 amended

455B.173 Duties. The commission shall:

1. Develop comprehensive plans and programs for the prevention, control and abatement of water pollution.

2. Establish, modify, or repeal water quality standards, pretreatment standards and effluent standards. The effluent standards may provide for maintaining the existing quality of the water of the state where the quality thereof exceeds the requirements of the water quality standards.

3. If the federal environmental protection agency has promulgated an effluent standard or pretreatment standard pursuant to section 301, 306 or 307 of the federal Water Pollution Control Act, a pretreatment or effluent standard adopted pursuant to this section shall not be more stringent than the federal effluent or pretreatment standard for such source. This section may not preclude the establishment of a more restrictive effluent limitation in the permit for a particular point source if the more restrictive effluent limitation is necessary to meet water quality standards, the establishment of an effluent standard for a source or class of sources for which the federal environmental protection agency has not promulgated standards pursuant to section 301, 306 or 307 of the federal Water Pollution Control Act. Except as required by federal law or regulation, the commission shall not adopt an effluent standard more stringent with respect to any pollutant than is necessary to reduce the concentration of that pollutant in the effluent to the level due to natural causes, including the mineral and chemical characteristics of the land, existing in the water of the state to which the effluent is discharged. Notwithstanding any other provision of this part of this division, any new source, the construction of which was commenced after October 18, 1972, and which was constructed as to meet all applicable standards of performance for the new source or any more stringent effluent limitation required to meet water quality standards, shall not be subject to any more stringent effluent limitations during a ten-year period beginning on the date of completion of construction or during the period of depreciation or amortization of the pollution control equipment for the facility for the purposes of section 167 and 169 or both sections of the Internal Revenue Code of 1954, whichever period ends first.

Establish, modify or repeal rules relating to the location, construction, operation, and maintenance of disposal systems and public water supply systems and specifying the conditions under which the executive director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or public water supply system, or for the discharge of any pollutant or for the disposal of water wastes resulting from poultry and livestock operations. The rules specifying the conditions under which the executive director shall issue permits for the construction of an electric power generating facility subject to chapter 476A shall provide for issuing a conditional permit upon the submission of engineering descriptions, flow diagrams and schematics that qualitatively and quantitatively identify effluent streams and alternative disposal systems that will provide compliance with effluent standards or limitations.

No rules shall be adopted which regulate the hiring or firing of operators of disposal systems or public water supply systems except rules which regulate the certification of operators as to their technical competency.

A publicly owned treatment works whose discharge meets the final effluent limitations which were contained in its discharge permit on the date that construction of the publicly owned treatment works was approved by the department shall

not be required to meet more stringent effluent limitations for a period of ten years from the date the construction was completed and accepted but not longer than twelve years from the date that construction was approved by the department.

4. Co-operate with other state or interstate water pollution control agencies in establishing standards, objectives, or criteria for the quality of interstate waters originating or flowing through this state.

5. Establish, modify or repeal rules relating to drinking water standards for public water supply systems. Such standards shall specify maximum contaminant levels or treatment techniques necessary to protect the public health and welfare. The drinking water standards must assure compliance with federal drinking water standards adopted pursuant to the federal Safe Drinking Water Act.

6. Establish, modify or repeal rules relating to inspection, monitoring, record keeping and reporting requirements for the owner or operator of any public water supply or any disposal system or of any source which is an industrial user of a publicly or privately owned disposal system.

7. Adopt a statewide plan for the provision of safe drinking water under emergency circumstances. All public agencies, as defined in chapter 28E, shall co-operate in the development and implementation of the plan. The plan shall detail the manner in which the various state and local agencies shall participate in the response to an emergency. The department may enter into any agreement, subject to approval of the commission, with any state agency or unit of local government or with the federal government which may be necessary to establish the role of such agencies in regard to the plan. This plan shall be co-ordinated with disaster emergency plans.

8. Formulate and adopt specific and detailed statewide standards pursuant to chapter 17A for review of plans and specifications and the construction of sewer systems and water supply distribution systems and extensions to such systems not later than October 1, 1977. The standards shall be based on criteria contained in the "Recommended Standards for Sewage Works" and "Recommended Standards for Water Works" (Ten States Standards) as adopted by the Great Lakes-Upper Mississippi River board of state sanitary engineers, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. The material standards for polyvinyl chloride pipe shall not exceed the specifications for polyvinyl chloride pipe in designations D-1784-69, D-2241-73, D-2564-76, D-2672-76, D-3036-73 and D-3139-73 of the American society of testing and material. The rules adopted which directly pertain to the construction of sewer systems and water supply distribution systems and the review of plans and specifications for such construction shall be known respectively as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems and shall be applicable in each governmental subdivision of the state. Exceptions shall be made to the standards so formulated only upon special request to and receipt of permission from the department. The department shall publish the standards and make copies of such standards available to governmental subdivisions and to the public.

(83 Acts, ch 136, § 2) SF 355

Former subsection 5 struck and following subsections renumbered

455B.174 Executive director's duties. The executive director shall:

1. Conduct investigations of alleged water pollution or of alleged violations of this part of this division or any rule adopted or any permit issued pursuant thereto upon written request of any state agency, political subdivision, local board of health, twenty-five residents of the state, as directed by the commission, or as may be necessary to accomplish the purposes of this part of this division.

2. Conduct periodic surveys and inspection of the construction, operation, self-monitoring, record keeping and reporting of all public water supply systems and all disposal systems except as provided in section 455B.183.

3. Take any action or actions allowed by law which, in the executive director's

judgment, are necessary to enforce or secure compliance with the provisions of this part of this division or of any rule or standard established or permit issued pursuant thereto.

4. Approve or disapprove the plans and specifications for the construction of disposal systems or public water supply systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The executive director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or public water supply system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The executive director shall also issue, revoke, suspend, modify or deny permits for the discharge of any pollutant. The permits shall contain conditions and schedules of compliance as necessary to meet the requirements of this part of this division and the federal Water Pollution Control Act. A permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to public notice and opportunity for public participation including public hearing as the commission may by rule require. The executive director shall promptly notify the applicant in writing of the executive director's action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit if the applicant files notice of appeal with the executive director within thirty days of the notice of denial or issuance of the permit. The executive director shall notify the applicant within thirty days of the time and place of the hearing.

Copies of all forms or other paper instruments required to be filed during on-site inspections or investigations shall be given to the owner or operator of the disposal system or public water supply system being investigated or inspected before the inspector or investigator leaves the site. Any other report, statement, or instrument shall not be filed with the department unless a copy is sent by ordinary mail to the owner or operator of the disposal system or public water supply system within ten working days of the filing. If an inspection or investigation is done in co-operation with another state department, the department involved and the areas inspected shall be stated.

The executive director shall also issue or deny conditional permits for the construction of disposal systems for electric power generating facilities subject to chapter 476A. All applications for conditional permits shall be subject to such notice and opportunity for public participation as may be required by the commission and as may be consistent with chapter 476A and any agreement pursuant thereto under chapter 28E. The applicant or an intervenor may appeal to the commission from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the executive director or the commission upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the commission. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawing and an application for a construction permit for a disposal system that will meet the effluent limitations in the conditional permit.

5. Conduct random inspections of work done by city and county public works departments to ensure such public works departments are complying with this Act [66GA, ch 1204]. If a city or county public works department is not complying with section 455B.183 in reviewing plans and specifications or in granting permits or both,

the department shall perform these functions in that jurisdiction until the city or county public works department is able to perform them. Performance of these functions in a jurisdiction by a local public works department shall not be suspended or revoked until after notice and opportunity for hearing as provided in chapter 17A.

The department shall give technical assistance to city and county public works departments upon request of such local public works departments.

(83 Acts, ch 137, § 4) SF 368

Subsection 4, unnumbered paragraph 1 amended

455B.175 Violations. If there is substantial evidence that any person has violated or is violating any provision of this part of this division, or of any rule or standard established or permit issued pursuant thereto; then:

1. The executive director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease. The person to whom such order is issued may cause to be commenced a contested case within the meaning of the Iowa administrative procedure Act by filing with the executive director within thirty days a notice of appeal to the commission. On appeal the commission may affirm, modify or vacate the order of the executive director; or

2. If it is determined by the executive director that an emergency exists respecting any matter affecting or likely to affect the public health, the executive director may issue any order necessary to terminate the emergency without notice and without hearing. Any such order shall be binding and effective immediately and until such order is modified or vacated at a hearing before the commission or by a court; or

3. The executive director, with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to section 455B.187.

(83 Acts, ch 137, § 5) SF 368

Unnumbered paragraph 1 amended

455B.183 Written permits required. It is unlawful to carry on any of the following activities without first securing a written permit from the executive director, or from a city or county public works department if the public works department reviews the activity under this section, as required by the commission:

1. The construction, installation or modification of any disposal system or public water supply system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section and private sewage disposal systems. A permit shall be issued for the construction, installation or modification of a public water supply distribution system or part of a system if a qualified, registered engineer certifies to the commission that the plans for the system or part of the system meet the requirements of state and federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable state and federal laws and regulations.

2. The construction or use of any new point source for the discharge of any pollutant into any water of the state.

3. The operation of any waste disposal system or public water supply system or any part of or extension or addition to such system. This provision does not apply to any pretreatment system the effluent of which is to be discharged directly to another disposal system for final treatment and disposal or any private sewage disposal system.

Upon adoption of standards by the commission pursuant to section 455B.173, subsections 6 to 9, plans and specifications for sewer extensions and water supply distribution system extensions covered by this section shall be submitted to the city or county public works department for approval if the local public works department

employs a qualified, registered engineer who reviews the plans and specifications using the specific state standards known as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems that have been formulated and adopted by the commission pursuant to section 455B.173, subsections 6 to 9. The local agency shall issue a written permit to construct if all of the following apply:

a. The submitted plans and specifications are in substantial compliance with departmental rules and the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems.

b. The extensions primarily serve residential consumers and will not result in an increase greater than five percent of the capacity of the treatment works or serve more than two hundred fifty dwelling units or, in the case of an extension to a water supply distribution system, the extension will have a capacity of less than five percent of the system or will serve fewer than two hundred fifty dwelling units.

c. The proposed sewer extension will not exceed the capacity of any treatment works which received a state or federal monetary grant after 1972.

d. The proposed water supply distribution system extension will not exceed the production capacity of any public water supply system constructed after 1972.

After issuing a permit, the city or county public works department shall notify the executive director of such issuance by forwarding a copy of the permit to the executive director. In addition, the local agency shall submit quarterly reports to the executive director including such information as capacity of local treatment plants and production capacity of public water supply systems as well as other necessary information requested by the executive director for the purpose of implementing this chapter.

Plans and specifications for all other waste disposal systems and public water supply systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. The construction of any such waste disposal system or public water supply system shall be in accordance with standards formulated and adopted by the commission pursuant to section 455B.173, subsections 6 to 9, or otherwise approved by the department. If it is necessary or desirable to make material changes in the plans or specifications, revised plans or specifications together with reasons for the proposed changes must be submitted to the department for a supplemental written permit.

Prior to the adoption of statewide standards, the department may delegate the authority to review plans and specifications to those governmental subdivisions if in addition to compliance with subsection 3 the governmental subdivisions agree to comply with all state and federal regulations and submit plans for the review of plans and specifications including a complete set of local standard specifications for such improvements.

The executive director may suspend or revoke delegation of review and permit authority after notice and hearing as set forth in chapter 17A if the executive director determines that a city or county public works department has approved extensions which do not comply with design criteria, which exceed the capacity of waste treatment plants or the production capacity of public water supply systems or which otherwise violate state or federal requirements.

The department shall exempt any public water supply system from any requirement respecting a maximum contaminant level or any treatment technique requirement of an applicable national drinking water regulation if these regulations apply to contaminants which the commission determines are harmless or beneficial to the health of consumers and if the owner of a public water supply system determines that funds are not reasonably available to provide for controlling amounts of those contaminants which are harmless or beneficial to the health of consumers.

(83 Acts, ch 137, § 6) SF 368

Amended

455B.261 Definitions. As used in this part of division III, unless the context otherwise requires:

1. "*Flood plains*" means the area adjoining a river or stream which has been or may be covered by flood water.

2. "*Floodway*" means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

3. "*Surface water*" means the water occurring on the surface of the ground.

4. "*Ground water*" means that water occurring beneath the surface of the ground.

5. "*Diffused waters*" means waters from precipitation and snowmelt which is not a part of any watercourse or basin including capillary soil water.

6. "*Depleting use*" means the storage, diversion, conveyance, or other use of a supply of water if the use may impair rights of lower or surrounding users, may impair the natural resources of the state, or may injure the public welfare if not controlled.

7. "*Beneficial use*" means the application of water to a useful purpose that inures to the benefit of the water user and subject to the user's dominion and control but does not include the waste or pollution of water.

8. "*Nonregulated use*" means the use of water for ordinary household purposes, use of water for poultry, livestock, and domestic animals, any beneficial use of surface flow from rivers bordering this state, any existing beneficial uses of water within the territorial boundaries of municipal corporations on May 16, 1957, and any other beneficial use of water by any person of less than twenty-five thousand gallons per day. However, industrial users of water, having their own water supply, within the territorial boundaries of municipal corporations, shall be regulated when their water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

9. "*Regulated use*" means any depleting use except a use specifically designated as a nonregulated use.

10. "*Permit*" means a written authorization issued by the department to a permittee which authorizes diversion, storage, or withdrawal of water limited as to quantity, time, place, and rate in accordance with this part or authorizes construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or flood plain in accordance with the principles and policies of protecting life and property from floods as specified in this part.

11. "*Permittee*" means a person who obtains a permit from the department authorizing the person to take possession by diversion or otherwise and to use and apply an allotted quantity of water for a designated beneficial use, and who makes actual use of the water for that purpose or a person who obtains a permit from the department authorizing construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or flood plain for a designated purpose.

12. "*Waste*" means any of the following:

a. Permitting ground water or surface water to flow, or taking it or using it in any manner so that it is not put to its full beneficial use.

b. Transporting ground water from its source to its place of use in such a manner that there is an excessive loss in transit.

c. Permitting or causing the pollution of a water-bearing strata through any act which will cause salt water, highly mineralized water, or otherwise contaminated water to enter it.

13. "*Watercourse*" means any lake, river, creek, ditch, or other body of water or channel having definite banks and bed with visible evidence of the flow or occurrence of water, except lakes or ponds without outlet to which only one landowner is riparian.

14. "*Basin*" means a specific subsurface water-bearing reservoir having reasonably ascertainable boundaries.

15. "Established average minimum flow" means the average minimum flow for a given watercourse at a given point determined and established by the commission. The "average minimum flow" for a given watercourse shall be determined by the following factors:

- a. Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.
- b. Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.
- c. The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public interest.

The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.

(83 Acts, ch 137, § 7, 8) SF 368

Subsections 1, 10, and 11 amended

Subsection 16 struck

455B.262 Declaration of policy and planning requirements.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1985, and ending December 31, 2004, utilizing a data base developed and managed by the Iowa geological survey, and prepare a general plan of water allocation in this state considering the quantity and quality of water resources available in this state designed to meet the specific needs of the water users. The department shall also develop and the commission shall adopt no later than January 1, 1985, a plan for delineation of flood plain and floodway boundaries for selected stream reaches in the various river basins of the state. Selection of the stream reaches and assignment of priorities for mapping of the selected reaches shall be based on consideration of flooding characteristics, the type and extent of existing and anticipated flood plain development in particular stream reaches, and the needs of local governmental bodies for assistance in delineating flood plain and floodway boundaries. The plan of flood plain mapping shall be for the period from January 1, 1985, to December 31, 2004. After the commission adopts a plan of flood plain mapping, the department shall submit a progress report and proposed implementation schedule to the general assembly biennially. The commission may modify the flood plain mapping plan as needed in response to changing circumstances.

2. The general welfare of the people of the state requires that the water resources of the state be put to beneficial use to the fullest extent possible, and that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation of water resources be encouraged with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

3. Water occurring in a basin or watercourse, or other natural body of water of the state, is public water and public wealth of the people of the state and subject to use in accordance with this chapter, and the control and development and use of water for all beneficial purposes is vested in the state, which shall take measures to encourage full utilization and protection of the water resources of the state.

(83 Acts, ch 137, § 9) SF 368

Struck and rewritten

455B.263 Duties.

1. a. Not later than January 15, 1985, the commission shall deliver to the secretary of the senate and the chief clerk of the house identical bills embodying a general plan of water allocation priorities for this state, considering the types of water resources available in the state, the principles and policies of beneficial use, and the water needs of all types of water users in this state, with a recommendation on the most effective means of implementation of the plan. It is the intent of this subsection that the general assembly shall bring the bill to a vote in either chamber under a procedure or rule permitting no amendments except those of a purely corrective nature. If by the end of the fourth week of the 1985 regular session, the bill embodying the plan is not approved by a constitutional majority in both chambers, the commission shall, by the end of the sixth week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical bills embodying a second plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for the failure of the first plan.

b. If, proceeding under a procedure or rule permitting amendments in the same manner as other bills, the bill embodying the second plan is not adopted by a constitutional majority in both chambers by the end of the tenth week of the 1985 regular session, the commission shall, by the end of the eleventh week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical bills embodying a third plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for failure of the second plan. It is the intent of this subsection that the third bill be subject to amendment in the same manner as other bills, and be enacted by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

2. The commission shall designate the official representative of this state on all comprehensive water resources planning groups for which state participation is provided. The commission shall coordinate state planning with local and national planning and, in safeguarding the interests of the state and its people, shall undertake the resolution of any conflicts that may arise between the water resources policies, plans, and projects of the federal government and the water resources policies, plans, and projects of the state, its agencies, and its people. This section does not limit or supplant the functions, duties, and responsibilities of other state or local agencies or institutions with regard to planning of water-associated projects within the particular area of responsibility of those state or local agencies or institutions.

3. The commission shall enter into negotiations and agreements with the federal government relative to the operation of, or the release of water from, any project that has been authorized or constructed by the federal government when the commission deems the negotiations and agreements to be necessary for the achievement of the policies of this state relative to its water resources.

4. The commission, on behalf of the state, shall enter into negotiations with the federal government relative to the inclusion of conservation storage features for water supply in any project that has been authorized by the federal government when the commission deems the negotiations to be necessary for the achievement of the policies of this state, however, an agreement reached pursuant to these negotiations does not bind the state until enacted into law by the general assembly.

5. A water user who benefits from the development by the federal government of conservation storage for water supply shall be encouraged to assume the responsibility for repaying to the federal government any reimbursable costs incurred in the development, and a user who accepts benefits from the developments financed in whole or part by the state shall assume by contract the responsibility of repaying to the state the user's reasonable share of the state's obligations in accordance with a basis which will assure payment within the life of the development. An appropriation, diversion, or use shall not be made by a person of any waters of the state that

have been stored or released from storage either under the authority of the state or pursuant to an agreement between the state and the federal government until the person has assumed by contract the person's repayment responsibility. However, this subsection does not infringe upon any vested property interests.

6. In its contracts with water users for the payment of state obligations incurred in the development of conservation storage for water supply, the commission shall include the terms deemed reasonable and necessary:

- a. To protect the health, safety, and general welfare of the people of the state.
- b. To achieve the purposes of this chapter.
- c. To provide that the state is not responsible to any person if the waters involved are insufficient for performance.

The commission may designate and describe any such contract, and describe the relationships to which it relates, as a sale of storage capacity, a sale of water release services, a contract for the storage or sale of water, or any similar terms suggestive of the creation of a property interest. The term of the contracts shall be commensurate with the investment and use concerned, but the commission shall not enter into any such contract for a term in excess of the maximum period provided for water use permits.

7. The commission shall procure flood control works and water resources projects from or by cooperation with any agency of the United States, by cooperation with the cities and other subdivisions of the state under the laws of the state relating to flood control and use of water resources, and by cooperation with the action of landowners in areas affected by the works or projects when the commission deems the projects to be necessary for the achievement of the policies of this state.

8. The commission shall promote the policies set forth in this part and shall represent this state in all matters within the scope of this part. The commission shall adopt rules pursuant to chapter 17A as necessary to transact its business and for the administration and exercise of its powers and duties.

9. In carrying out its duties, the commission may accept gifts, contributions, donations and grants, and use them for any purpose within the scope of this part.

(83 Acts, ch 137, § 10) SF 368

Subsections 1 and 7 amended

455B.264 Jurisdiction — water and flood plains.

1. The commission has jurisdiction over the public and private waters in the state and the lands adjacent to the waters necessary for the purposes of carrying out this part. The commission may construct flood control works or any part of the works. In the construction of the works, in making surveys and investigations, or in formulating plans and programs relating to the water resources of the state, the commission may cooperate with an agency of another state or the United States, or with any other person.

2. Upon application by any person for permission to divert, pump, or otherwise take waters from any watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use, the executive director shall investigate the effect of the use upon the natural flow of the watercourse, the effect of the use upon the owners of any land which might be affected by the use, and whether the use is consistent with the plan of water allocation priorities for this state.

3. Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway. In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements.

(83 Acts, ch 137, § 11) SF 368

Amended

455B.265 Permits for diversion, storage, and withdrawal. If the department determines after due investigation that the diversion, storage, or withdrawal of water will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who may be affected, the department shall grant a permit for the diversion, storage, or withdrawal. Permits shall be granted for a period of ten years except permits for withdrawal of water which may be granted for less than ten years if geological data on the capacity of the aquifer and the rate of its recharge are indeterminate and permits for the storage of water which may be granted for the life of the structure unless revoked by the commission. All existing storage permits are extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until an earlier date when the permit or any extension of the permit is canceled under section 455B.271. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for a period of ten years.

(83 Acts, ch 137, § 12) SF 368

Amended

455B.266 Priority of permits for diversion, storage, and withdrawal. In the consideration of applications for permits, priority in processing shall be given to persons in the order that the applications are received, except that this processing priority shall not affect the substantive priorities established under the plan of water allocation priorities for this state and except where the application of this priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. The executive director or the commission on appeal shall determine the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue unless its use damages some other riparian user. If there is competition for water, the use of water for irrigation has a lower priority than other beneficial uses of water subject to conditions which the commission may establish by rule. Except as otherwise provided in this section, until the plan of water allocation priorities is enacted as provided in section 455B.263, subsection 1, the principles and policies of beneficial use shall establish the standards for the determination of the disposition of permit applications. After it is enacted as provided in section 455B.263, subsection 1, the plan of water allocation priorities shall establish the standards for determination of the disposition of permit applications. This part does not impair the vested right of any person.

(83 Acts, ch 137, § 13) SF 368

Amended

455B.269 Taking water prohibited. A person shall not take water from a natural watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use except in compliance with the sections of this part which relate to the withdrawal, diversion, or storage of water. However, existing uses may be continued during the period of the pendency of an application for a permit.

(83 Acts, ch 137, § 14) SF 368

Amended

455B.270 Rights preserved. The sections of this part which relate to the withdrawal, diversion, or storage of water do not deprive any person of the right to use diffused waters, to drain land by use of tile, open ditch, or surface drainage, or to construct an impoundment on the person's property or across a stream that

originates on the person's property if provision is made for safe construction and for a continued established average minimum flow when the flow is required to protect the rights of water users below.

(83 Acts, ch 137, § 15) SF 368

Amended

455B.271 Modification or cancellation of permits. Each permit issued under section 455B.265 is irrevocable for its term and for any extension of its term except as follows:

1. A permit may be modified or canceled by the department with the consent of the permittee.

2. Subject to appeal to the commission, a permit may be modified or canceled by the executive director if any of the following occur:

a. There is a breach of the terms of the permit.

b. There is a violation of the law pertaining to the permit by the permittee or the permittee's agents.

c. There is a circumstance of nonuse as provided in section 455B.272.

d. The department finds that modification or cancellation is necessary to protect the public health or safety, to protect the public interests in lands or waters, or to prevent substantial injury to persons or property in any manner. Before the modification or cancellation is effective, the department shall give at least thirty days' written notice mailed to the permittee at the permittee's last known address, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard on the proposal.

3. By written order to the permittee, the department may suspend operations under a permit if the executive director finds it necessary in an emergency to protect the public health, to protect the public interest in waters against imminent danger of substantial injury in any manner or to an extent not expressly authorized by the permit, or to protect persons or property against imminent danger. The department may require the permittee to take measures necessary to prevent or remedy the injury, but an order shall not be in effect for more than thirty days from the date of issue without giving the permittee at least ten days' written notice of the order and an opportunity to be heard on the order.

(83 Acts, ch 137, § 16) SF 368

Unnumbered paragraph 1 amended

455B.272 Termination of permit. The right of the permittee and the permittee's successors to the use of water shall terminate when the permittee or the permittee's successors fail for three consecutive years to use it for the specific beneficial purpose authorized in the permit and, after notification by the department of intent to cancel the permit for nonuse, the permittee or the permittee's successors fail to demonstrate adequate plans to use water within a reasonable time. However, nonuse of water due to adequate rainfall does not constitute grounds for cancellation of a permit to use water for irrigation.

(83 Acts, ch 137, § 17) SF 368

Amended

455B.275 Prohibited acts — powers of commission and executive director.

1. A person shall not permit, erect, use or maintain a structure, dam, obstruction, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, or adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.

2. The department may commence, maintain, and prosecute any appropriate

action to enjoin or abate a nuisance, including any of the nuisances specified in subsection 1 and any other nuisance which adversely affects flood control.

3. If a person desires to erect or make or to permit a structure, dam, obstruction, deposit or excavation, other than a dam constructed and operated under chapter 469, to be erected, made, used, or maintained in or on any floodway or flood plains, the person shall file a verified written application with the department, setting forth information as required by rule of the commission. The department, after an investigation, shall approve or deny the application imposing conditions and terms as prescribed by the department.

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated. The costs of abatement shall be borne by the violator. Notwithstanding section 93A.11, a structure, dam, obstruction, deposit, or excavation on a floodway or flood plain in an agricultural area established under chapter 93A is not exempt from the sections of this part which relate to regulation of flood plains and floodways.

5. The department may remove or eliminate a structure, dam, obstruction, deposit, or excavation in a floodway which adversely affects the efficiency of or unduly restricts the capacity of the floodway, by an action in condemnation, and in assessing the damages in the proceeding, the appraisers and the court shall take into consideration whether the structure, dam, obstruction, deposit, or excavation is lawfully in or on the floodway in compliance with this part.

6. The department may require, as a condition of an approval order or permit granted pursuant to this part or chapter 469, the furnishing of a performance bond with good and sufficient surety, conditioned upon full compliance with the order or permit and the rules of the commission. In determining the need for and amount of bond, the department shall give consideration to the hazard posed by the construction and maintenance of the approved works and the protection of the health, safety, and welfare of the people of the state. This subsection does not apply to orders or permits granted to a governmental entity.

7. When approving a request to straighten a stream, the department may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within a minimum distance from the stream sufficient in the judgment of the director or commission to hold soil erosion to reasonable limits. The department shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land.

8. The commission shall establish, by rule, thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than those established by the commission is not subject to regulation under this section. The thresholds shall be established so that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment are subject to regulation.

(83 Acts, ch 137, § 18) SF 368
Subsections 1 and 4 amended

455B.276 Flood plains — encroachment limits. The commission may establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The commission shall determine the characteristics of floods which reasonably may be expected to occur and may establish by order encroachment limits, protection

methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 455B.277. An order establishing encroachment limits shall not be issued until notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits, the commission shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

The commission shall cooperate with and assist local units of government in the establishment of encroachment limits, flood plain regulations, and zoning ordinances relating to flood plain areas within their jurisdiction. Encroachment limits, flood plain regulations, or flood plain zoning ordinances proposed by local units of government shall be submitted to the department for review and approval prior to adoption by the local units of government. Changes or variations from an approved regulation or ordinance as it relates to flood plain use are subject to approval by the commission prior to adoption. Individual applications, plans, and specifications and individual approval orders shall not be required for works on the flood plains constructed in conformity with encroachment limits, flood plain regulations, or zoning ordinances adopted by the local units of government and approved by the commission.

(83 Acts, ch 137, § 19) SF 368

Unnumbered paragraph 1 amended

455B.277 Flood control works coordinated. All flood control works in the state, which are established and constructed after April 16, 1949, shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable throughout the state. A person shall not construct or install works of any nature for flood control until the proposed works and the plans and specifications for the works are approved by the department. The department shall consider all the pertinent facts relating to the proposed works which will affect flood control and water resources in the state and shall determine whether the proposed works in the plans and specifications will be in aid of and acceptable as part of, or will adversely affect and interfere with flood control in the state, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, or adversely affect or interfere with an approved local water resources plan. In the event of disapproval, the department shall set forth the objectionable features so that the proposed works and the plans and specifications for the proposed works may be corrected or adjusted to obtain approval.

This section applies to drainage districts, soil conservation districts, the state conservation commission, political subdivisions of the state, and private persons undertaking projects relating to flood control.

(83 Acts, ch 137, § 20) SF 368

Unnumbered paragraph 1 amended

455B.278 Permit application procedures.

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The rules shall include provisions for application, public notice and opportunity for public hearing, and contested cases. Public notice of a decision by the executive director to issue a permit shall be given in a manner designed to inform persons who may be adversely affected by the permitted project or activity.

2. Action by the department upon an application for a permit required under this part may be appealed to the commission by the applicant or any affected person within thirty days of the department's action. A hearing before the commission or its designee is a contested case. The hearings and judicial review of decisions of the commission shall be carried out in accordance with chapter 17A. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of Polk county or of any county in which the property affected is located. If the commission, the district court, or the supreme court determines that the action of the commission shall be stayed, the petitioner shall file an appropriate bond approved by the court.

(83 Acts, ch 137, § 21) SF 368

Subsection 1 amended

(83 Acts, ch 136, § 3) SF 355

See Code editor's note at the end of this Supplement

Subsection 1 amended

455B.279 Violation.

1. The commission may issue any order necessary to secure compliance with or prevent a violation of this part or the rules adopted pursuant to this part. The department may request legal services as required from the attorney general, including any legal proceeding necessary to obtain compliance with this part and rules and orders issued under this part.

2. A person who violates a provision of this part or a rule or order adopted or promulgated or the conditions of a permit issued pursuant to this part is subject to a civil penalty not to exceed five hundred dollars for each day that a violation occurs.

(83 Acts, ch 137, § 22) SF 368

Subsection 1 amended

455B.305 Certification of plans by director. The executive director shall issue, revoke, suspend, modify, or deny permits for the construction and operation of sanitary disposal projects.

A permit shall be issued by the executive director or at the executive director's direction, by a local board of health, for each sanitary disposal project operated in this state. The permit shall be issued in the name of the city or county or, where applicable, in the name of the public or private agency operating the project. Each sanitary disposal project shall be inspected annually by the department or a local board of health. The permits issued pursuant to this section shall be in addition to any other licenses, permits or variances authorized or required by law, including, but not limited to, the provisions of chapter 358A. A permit may be suspended or revoked by the executive director if a sanitary disposal project is found not to meet the requirements of part 1 of this division or rules issued under part 1 of this division. The suspension or revocation of a permit may be appealed to the commission.

(83 Acts, ch 136, § 4) SF 355

Amended

455B.334 Waste disposal site. The commission may approve or prohibit the establishment and operation of a nuclear waste disposal site in this state by a private person. In determining whether to grant or deny a permit to establish and operate a nuclear waste disposal site, the commission shall consider the need for a nuclear waste disposal site and the existing physical conditions, topography, soils and geology, climate, transportation, and land use at the proposed site. If the commission

decides to issue a permit to establish and operate a nuclear waste disposal site, it shall establish, by rule, standards and procedures for the safe operation and maintenance of the proposed site. The commission shall also require the permittee to provide a sufficient surety bond or other financial commitment to insure the perpetual maintenance and monitoring of the nuclear waste disposal site.

(83 Acts, ch 136, § 5) SF 355

Amended

455B.335 Executive director's duties. The executive director:

1. Shall enforce any rules adopted under this part 2 of division IV and furnish a copy of the rules to each applicant for a permit required under this part.

2. May issue a permit to any person transporting, handling, or storing any radioactive material under rules adopted by the commission.

3. May require the maintenance of records relating to the receipt, storage, transfer, or disposal of radioactive material.

4. May issue, modify, or revoke orders in accordance with the provisions of this part 2 of division IV or the rules adopted under said part.

5. May require the submission of plans and specifications for the design, construction, maintenance, and monitoring of nuclear waste disposal sites for review and appraisal.

(83 Acts, ch 136, § 6) SF 355

Subsections 1 and 2 amended

455B.387 Removal of hazardous substances.

1. When any hazardous condition exists, the executive director may remove or provide for the removal and disposal of the hazardous substance at any time, unless the executive director determines such removal will be properly and promptly accomplished by the owner or operator of the vessel, vehicle, container, pipeline or other facility.

2. The executive director may use any resources available under the hazardous condition contingency plan to provide for the removal of hazardous substances. If the executive director finds that public agencies cannot provide the necessary labor or equipment or if the executive director determines that emergency conditions exist, the executive director may contract with a private person or agency for removal of the hazardous substance. In those cases where equipment or services are obtained from a public or private person or agency under emergency conditions, section 455B.105, subsection 7 does not apply.

(83 Acts, ch 101, § 94) SF 136

Subsection 2 amended

455B.415 Permit required.

1. Except as provided in subsections 2 and 4, a person shall not construct or operate a facility for the treatment, storage or disposal of a hazardous waste listed under section 455B.412, subsection 2 unless the owner or operator has obtained a permit for the facility from the executive director.

2. The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste listed under section 455B.412, subsection 2 existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule listing the waste and that is required to have a permit under sections 455B.411 to 455B.421 is considered to have a permit until such time as final administrative determination is made if the person meets the following conditions:

a. The person has given notice as required by section 455B.414.

b. The person has applied for a permit.

c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

3. The commission may by rule specify the information required to be submitted with the application for a permit and the conditions under which the executive director shall issue, deny, revoke, suspend or modify permits. However, a permit shall not be issued for a treatment, storage or disposal facility unless the applicant presents evidence of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage or disposal of the hazardous waste as determined by the commission.

4. A permit is not required for the storage of a hazardous waste listed under section 455B.412, subsection 2 when the only purpose of the storage is to accumulate for a period of up to ninety days sufficient quantities of the waste for transportation, treatment or disposal unless a permit for the storage is required under federal law.

5. A permit issued pursuant to this section shall be in addition to other licenses, permits or variances authorized or required by law, including, but not limited to, the requirements of chapter 358A.

6. If the executive director denies a permit, the executive director shall inform the applicant in writing of the reasons for the denial. The applicant may appeal to the commission from the denial of a permit or from a condition of a permit if the applicant files a notice of appeal with the executive director within thirty days of receipt of the denial or issuance of the permit.

(83 Acts, ch 136, § 7) SF 355
Subsection 1 amended

455B.441 Purpose and guidelines. The purpose of this part is to protect the public health and the environment by providing a procedure for establishing appropriate sites and properly designed facilities for the treatment, storage and disposal of hazardous waste. It is the intent of the general assembly that in the implementation of this part the department of water, air and waste management shall emphasize alternatives to land burial of hazardous waste whenever possible with emphasis on the following management methods in the following order: Source reduction, reuse, resource recovery, incineration, and detoxification.

(83 Acts, ch 101, § 95) SF 136

Amended

(83 Acts, ch 137, § 23) SF 368

Amended; identical amendment

455B.442 Definitions. As used in this part 6 of division IV unless the context otherwise requires:

1. *a. "Facility"* means land and structures, other appurtenances, and improvements on the land used for the treatment, storage, or disposal of a hazardous waste required to have a permit under section 455B.415.

b. "Facility" does not include land, structures, other appurtenances and improvements contiguous to the source of generation and owned and operated by and exclusively for the treatment, storage, or disposal of hazardous waste of the generator.

c. As used in this subsection property is contiguous if it is divided only by a public or private way.

2. *"Hazardous waste"* means a hazardous waste as defined in section 455B.411, subsection 2 and listed under section 455B.412, subsection 2.

3. *"Regulatory agency"* means a state or local agency that issues a license or permit required for the construction, operation, or maintenance of a facility pursuant to state statute or rule or local ordinance or resolution in effect on the date the application for a site license is submitted to the commission.

4. *"Construct"* means significant alteration of a site to install permanent equipment or structures but does not include activities incident to preliminary engineering, environmental studies, or acquisition of a site for a facility. "Construct" includes alteration to existing structures or a land disposal facility to initially accommodate hazardous waste but does not include any alteration to increase the capacity or

change the ability to accommodate hazardous waste. However, any alteration to increase or change the ability to accommodate hazardous waste is subject to section 455B.413.

(83 Acts, ch 101, § 96, 97) SF 136

Subsection 2 amended

Subsections 3 and 4 struck and following subsections renumbered

(83 Acts, ch 137, § 24, 25) SF 368

Nearly identical amendments; see Code editor's note to section 12.10 at the end of this Supplement

Subsection 2 amended

Subsections 3 and 4 struck and following subsections renumbered

CHAPTER 455C

BEVERAGE CONTAINERS DEPOSIT

A rule adopted, permit or order issued, or approval given by the environmental quality commission or executive director of the department of environmental quality under this chapter before July 1, 1983, and in force just prior to July 1, 1983, remains effective until modified or rescinded by action of the water, air and waste management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to 82 Acts, ch 1199; 83 Acts, ch 137, § 29

455C.3 Payment of refund value. Except as provided in section 455C.4:

1. A dealer shall not refuse to accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, or refuse to pay to the consumer the refund value of a beverage container as provided under section 455C.2.

2. A distributor shall accept and pick up from a dealer served by the distributor or a redemption center for a dealer served by the distributor at least weekly, or when the distributor delivers the beverage product if deliveries are less frequent than weekly, any empty beverage container of the kind, size and brand sold by the distributor, and shall pay to the dealer or person operating a redemption center the refund value of a beverage container and the reimbursement as provided under section 455C.2 within one week following pickup of the containers or when the dealer or redemption center normally pays the distributor for the deposit on beverage products purchased from the distributor if less frequent than weekly. A distributor or employee or agent of a distributor is not in violation of this subsection if a redemption center is closed when the distributor attempts to make a regular delivery or a regular pickup of empty beverage containers. This subsection does not apply to a distributor selling alcoholic liquor to the Iowa beer and liquor control department.

3. A distributor shall not be required to pay to a manufacturer a deposit or refund value on a nonrefillable beverage container.

(83 Acts, ch 84, § 1) HF 135

Subsection 2 amended

CHAPTER 460

HIGHWAY DRAINAGE DISTRICTS

460.7 Advanced payments. The board on construction of the improvement may advance that portion to be collected by special assessment, the amount so advanced to be replaced as the first special assessments are collected. The board may in lieu of making advancements, issue warrants to be known as "Drainage Warrants", the warrants to bear interest at a rate not exceeding that permitted by chapter 74A payable annually from the date of issue and to be paid out of the special assessments levied, when they are collected.

(83 Acts, ch 123, § 186, 209) HF 628

Amended

460.8 Payment from road funds. The amount fixed by the final order of the board of supervisors to be paid:

1. On account of the primary road system, shall be payable by the state department of transportation on due certification of the amount by the county treasurer to the state department of transportation out of the primary road fund.

2. On account of the secondary road system, is payable from county funds.

(83 Acts, ch 123, § 187, 209) HF 628
 Subsection 2 amended

460.11 Laws applicable. All proceedings for the construction and maintenance of highway drainage districts except as provided for in this chapter shall be as provided for in chapters 455, 457, 458, and 459.

(83 Acts, ch 101, § 98) SF 136
 Amended

CHAPTER 462

MANAGEMENT OF DRAINAGE OR LEVEE DISTRICTS BY TRUSTEES

462.1 Trustees authorized. In the manner provided in this chapter, any drainage or levee district in which the original construction has been completed and paid for by bond issue or otherwise, may be placed under the control and management of a board of three trustees to be elected by the persons owning land in the district that has been assessed for benefits.

A district under the control of a city council as provided in chapter 459 may be placed under the control and management of a board of trustees by the city council following the procedures provided in this chapter for the county board of supervisors.

(83 Acts, ch 163, § 1) HF 42
 NEW unnumbered paragraph 2

462.7 Eligibility of trustees. Each trustee shall be a citizen of the United States not less than eighteen years of age, and one of the following:

1. The bona fide owner of agricultural land in the election district for which the trustee is elected, and a resident of the county in which that district is located or of a county which is contiguous to or corners on that county.

2. The bona fide owner of nonagricultural land in the election district for which the trustee is elected, and a resident of that district. This subsection applies only when the election district is wholly within the corporate limits of a city.

3. A stockholder of a family farm corporation as defined in section 172C.1, subsection 8, which owns land in the election district who is a resident of the county in which that district is located or of a county which is contiguous to or corners on that county.

4. In a district which is a levee and drainage district which has eighty-five percent of its acreage within the corporate limits of a city and has been under the control of a city under chapter 459, a bona fide owner of benefited land in the district. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 491, 494, or 496A, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

(83 Acts, ch 163, § 2) HF 42
 Amended
 NEW subsections 2-4

462.20 Levee and pumping station districts. In levee and drainage districts having pumping stations trustees shall hold office until the fourth Saturday in January three years after election. On the third Saturday in January of each year a trustee shall be elected for a term of three years to succeed the member of the board

whose term will expire on the following Saturday. At the election there shall also be elected, if necessary, a trustee to fill any vacancy which occurred before the election.

(83 Acts, ch 101, § 99) SF 136

Amended

462.21 Division of districts under trustees. When a trustee is to be elected, it shall be for a specified election district within the district.

(83 Acts, ch 101, § 100) SF 136

Amended

CHAPTER 466

DRAINAGE DISTRICTS IN CONNECTION WITH UNITED STATES LEVEES

466.8 Laws applicable. In the establishment and maintenance of levee and drainage districts in co-operation with the United States as in this chapter provided, all the proceedings in the filing and the form and substance of the petition, assessment of damages, appointment of an engineer, the engineer's surveys, plats, profiles, and report, notice of hearings, filing of claims and objections, hearings, appointment of commissioners to classify lands, assess benefits, and apportion costs and expenses, report, notice and hearing on the report, the appointment of a supervising engineer, the engineer's duties, the letting of work and making contracts, payment for work, levy and collection of drainage or levee assessments and taxes, the issue of improvement certificates and drainage or levee bonds, the taking of appeals and the manner of trial of appeals, and all other proceedings relating to the district shall be as provided in chapters 455 and 456 through 465 except as otherwise in this chapter provided.

(83 Acts, ch 101, § 101) SF 136

Amended

CHAPTER 467A

SOIL CONSERVATION

467A.4 State soil conservation committee.

1. There is established, to serve as an agency of the state and to perform the functions conferred upon it in this chapter, the department of soil conservation. The department shall be administered in accordance with the policies of the state soil conservation committee, which shall approve administrative rules proposed by the department before the rules are adopted pursuant to chapter 17A. The state soil conservation committee shall consist of a chairperson and twelve members. The following shall serve as ex officio nonvoting members of the committee: The director of the state agricultural extension service, or the director's designee, the secretary of agriculture or the secretary's designee, the director of the state conservation commission or the director's designee, and the executive director of the department of water, air and waste management or the executive director's designee. Eight voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of the six conservancy districts established by section 467D.3, and no more than one of whom shall be a resident of any one

county. The seventh and eighth appointive members shall be chosen by the governor from the state at large with one appointed to be a representative of cities and one appointed to be a representative of the mining industry. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the above-mentioned members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons shall have no vote and shall serve in an advisory capacity only. The committee shall adopt a seal, which seal shall be judicially noticed, and may perform acts, hold public hearings, and adopt rules as provided in chapter 17A as necessary for the execution of its functions under this chapter.

2. The state soil conservation committee may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The committee or department may call upon the attorney general of the state for such legal services as either may require. The committee shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. Upon request of the committee, for the purpose of carrying out any of the functions assigned the committee or the department by law, the supervising officer of any state agency, or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the department members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

3. The committee shall designate its chairperson, and may change the designation. The members appointed by the governor shall serve for a period of six years. Members shall be appointed in each odd-numbered year to succeed members whose terms expire as provided by section 69.19. Appointments may be made at other times and for other periods as necessary to fill vacancies on the committee. Members shall not be appointed to serve more than two complete six-year terms. Members designated to represent the secretary of agriculture, director of the state conservation commission, or the executive director of the department of water, air and waste management shall serve at the pleasure of the officer making the designation. A majority of the voting members of the committee constitutes a quorum, and the concurrence of a majority of the voting members of the committee in any matter within their duties is required for its determination. The chairperson and members of the committee, not otherwise in the employ of the state, or any political subdivision, shall receive forty dollars per diem as compensation for their services in the discharge of their duties as members of the committee. The committee shall determine the number of days for which any committee member may draw per diem compensation, but the total number of days for which per diem compensation is allowed for the entire committee shall not exceed four hundred days per year. They are also entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the committee. The per diem and expenses paid to the committee members shall be paid from funds appropriated to the committee. The committee shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

4. In addition to the duties and powers hereinafter conferred upon the department of soil conservation, it shall have the following duties and powers:

a. To offer such assistance as may be appropriate to the commissioners of soil conservation districts in carrying out any of their powers and programs.

b. To keep the commissioners of each of the several districts informed of the

activities and experience of all other districts and to facilitate an interchange of advice and experience between such districts and co-operation between them.

c. To co-ordinate the programs of the several soil conservation districts so far as this may be done by advice and consultation.

d. To secure the co-operation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts.

e. To disseminate information throughout the state concerning the activities and program of the soil conservation districts.

f. To render financial aid and assistance to soil conservation districts for the purpose of carrying out the policy stated in this chapter.

g. To offer such assistance as may be appropriate to the conservancy districts established by section 467D.3, and in the carrying out of any of their powers and programs.

h. Review, amend, and give final approval to the plan of each of the conservancy districts, and to any subsequent changes therein, in the manner provided by chapter 467D.

i. Maintain files of such proceedings, rules, and orders, of each of the conservancy districts in the state as the department may request from the conservancy districts pursuant to section 467D.6, subsection 11.

j. To keep the boards of each of the six conservancy districts established by section 467D.3 informed of the activities and experience of the other conservancy districts and to facilitate an interchange of advice and experience between conservancy districts and co-operation between them.

k. To co-ordinate the programs of the conservancy districts so far as this may be done by advice and consultation.

l. To disseminate information throughout the state concerning the activities and programs of the conservancy districts established by section 467D.3.

m. To render financial aid and assistance to the six conservancy districts established by section 467D.3 for the purpose of carrying out the policy stated in chapter 467D.

n. To establish and maintain an interagency co-ordinating committee for the purpose of preparing and disseminating recommendations for co-ordinated efforts to deal with water and soil management problems, including but not necessarily limited to the flow of water into, across and from public roads and roadside ditches, that are the common concern of two or more of the agencies or groups represented on the committee. The committee shall meet at the call of the chairperson or upon the written request of any three members, to execute the functions assigned it by this section. The co-ordinating committee shall consist of:

(1) The director of the department of soil conservation or the director's designee, who shall act as chairperson of the co-ordinating committee.

(2) A representative of the state department of agriculture, designated by the secretary of agriculture.

(3) A representative of the department of water, air and waste management, designated by the executive director of that department.

(4) A representative of the department of transportation, designated by the director of that department.

(5) A representative of county boards of supervisors, designated by the county supervisors association affiliated with the Iowa state association of counties.

(6) A representative of county engineers, designated by the county engineers association affiliated with the Iowa state association of counties.

(7) A representative of soil conservation district commissioners, designated by the Iowa association of soil conservation district commissioners.

(8) A member of the state soil conservation committee.

(9) The state conservationist of the United States soil conservation service, or that officer's designee.

(83 Acts, ch 101, § 102) SF 136

Subsection 4, paragraph n, subparagraph (3) amended

467A.44 Rules by commissioners — scope. The commissioners of each soil conservation district shall, with approval of and within time limits set by administrative order of the state soil conservation committee, adopt such reasonable regulations as are deemed necessary to establish a soil loss limit or limits for the district and provide for the implementation of the limit or limits, and may subsequently amend or repeal their regulations as they deem necessary. The state soil conservation committee shall review the soil loss limit regulations adopted by the soil conservation districts at least once every five years, and shall recommend any changes in the regulations of any soil conservation district which the state committee deems necessary to assure that the district's soil loss limits are reasonable and attainable. The commissioners may:

1. Classify land in the district on the basis of topography, soil characteristics, current use, and other factors affecting propensity to soil erosion.

2. Establish different soil loss limits for different classes of land in the district if in their judgment and that of the state soil conservation committee a lower soil loss limit should be applied to some land than can reasonably be applied to other land in the district, it being the intent of the general assembly that no land in the state be assigned a soil loss limit that cannot reasonably be applied to such land.

3. Require the owners of real property in the district to employ either soil and water conservation practices or erosion control practices, and:

a. May not specify the particular practices to be employed so long as such owners voluntarily comply with the applicable soil loss limits established for the district.

b. May specify two or more approved soil and water conservation practices or erosion control practices, one of which shall be employed by the landowner to bring erosion from land under his control within the applicable soil loss limit of the district when an administrative order is issued to the landowner.

c. In no case may the commissioners require:

(1) The employment of erosion control practices as defined in section 467A.42, subsection 3, on land used in good faith for agricultural or horticultural purposes only.

(2) The employment of soil and water conservation practices or erosion control practices on that portion of any public street, road or highway completed or under construction within the corporate limits of any city, which is or will become the traveled or surfaced portion of such street, road, or highway.

(3) That any owner or operator of agricultural land refrain from fall plowing of land on which he intends to raise a crop during the next succeeding growing season, however on those lands which are prone to excessive wind erosion the commissioners may require that reasonable temporary measures be taken to minimize the likelihood of wind erosion so long as such measures do not unduly increase the cost of operation of the farm on which the land is located. However, fall plowing of soil which is commonly known as gumbo shall always be permitted.

d. May require that a person under an order to employ soil and water conservation practices or erosion control practices submit up to three bids to the commissioners for the work and provide an explanation to the commissioners if a bid other than the lowest bid has been selected by that person.

(83 Acts, ch 45, § 1) HF 199

NEW paragraph d added to subsection 3

467A.71 Conservation practices revolving loan fund.

1. The state soil conservation committee may establish a conservation practices revolving loan fund composed of any money appropriated by the general assembly for that purpose, and of any other moneys available to and obtained or accepted by the committee from the federal government or private sources for placement in that fund. Except as otherwise provided by subsection 3, the assets of the conservation practices revolving loan fund shall be used only to make loans directly to owners of land in this state with a net worth not to exceed three hundred thousand dollars for

the purpose of establishing on that land any new permanent soil and water conservation practice which the commissioners of the soil conservation district in which the land is located have found is necessary or advisable to meet the soil loss limits established for that land. Revolving loan funds and public cost-sharing funds shall not be used in combination for funding a particular soil and water conservation practice. The net worth of the applicant shall be provided by a financial institution of the state of Iowa. Each loan made under this section shall be for a period not to exceed ten years, shall bear no interest, and shall be repayable to the conservation practices revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants shall be eligible for no more than ten thousand dollars in loans outstanding at any time under this program. "Permanent soil and water conservation practices" has the same meaning as defined in section 467A.42 and those established under this program are subject to the requirements of section 467A.7, subsection 16. Loans made under this program shall come due for payment upon sale of the land on which those practices are established.

2. The general assembly finds and declares the following:

a. The erosion of topsoil on agricultural land by wind and water is a serious problem within the state and one which threatens to destroy the natural resource most responsible for Iowa's prosperity.

b. It is necessary to the preservation of the economy and well-being of the state to encourage soil conservation practices by providing loans for permanent soil and water conservation practices on agricultural land within the state.

c. The use of state funds for the conservation practices revolving loan fund established under subsection 1 is in the public interest, and the purposes of this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

3. The state soil conservation committee may:

a. Contract, sue and be sued, and promulgate administrative rules necessary to carry out the provisions of this section, but the committee shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

b. Authorize payment from the conservation practices revolving loan fund, from fees and from any income received by investments of money in the fund for costs, commissions, attorney fees and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with such loans.

4. This section does not negate the provisions of section 467A.48 that an owner or occupant of land in this state shall not be required to establish any new soil and water conservation practice unless public cost-sharing funds have been approved and are available for the land affected. However, the owner of land with respect to which an administrative order to establish soil and water conservation practices has been issued under section 467A.47 but not complied with for lack of public cost-sharing funds, may waive the right to await availability of such funds and instead apply for a loan under this section to establish any permanent soil and water conservation practices necessary to comply with the order. If a landowner does so, that loan application shall be given reasonable preference by the state soil conservation committee if there are applications for more loans under this section than can be made from the money available in the conservation practices loan reserve fund*. If it is found necessary to deny an application for a soil and water conservation practices loan to a landowner who has waived the right to availability of public cost-sharing funds before complying with an administrative order issued under section 467A.47, the landowner's waiver is void.

(83 Acts, ch 207, § 53, 93) SF 548

Effective June 25, 1983

NEW section

*Revolving loan fund" probably intended

See Code editor's note at the end of this Supplement

CHAPTER 467B

FLOOD AND EROSION CONTROL

467B.9 Tax levy. The county board of supervisors may annually levy a tax not to exceed six and three-fourths cents per thousand dollars of assessed value of all agricultural lands in the county, to be used for flood and erosion control, including acquisition of land or interests in land, and repair, alteration, maintenance, and operation of works of improvement on lands under the control or jurisdiction of the county as provided in this chapter.

(83 Acts, ch 123, § 188, 209) HF 628

NEW section

CHAPTER 467D

CONSERVANCY DISTRICTS

467D.6 Powers and duties of board. The board of each conservancy district shall:

1. Exercise supervision over the water resources of the conservancy district, including water in any basin, watercourse, or other body of water in the conservancy district, and may adopt and repeal, with approval of the department, and enforce rules, except those rules relating to water resources under the authority of the department of water, air and waste management, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

2. Have authority to employ, appoint, or retain attorneys, engineers, other professional and technical employees, and such other personnel as are deemed necessary, and approve bonds of conservancy district employees.

3. Prepare, adopt, and implement a plan, and review and revise the same, in the manner prescribed by this chapter.

4. Encourage, foster, and promote establishment, enlargement, or consolidation of drainage, levee, soil conservation, flood control, and sanitation districts where desirable, provided that this subsection shall not be construed to vest the board with authority to directly establish, enlarge, or consolidate any such districts by any procedure not otherwise prescribed by law.

5. Review the plans and co-ordinate the programs and activities between counties, cities and any of the entities listed in subsection 4 of this section, and otherwise advise and assist the governing bodies of such entities in any appropriate manner, in all cases which relate to any matter within the jurisdiction of the conservancy district, provided that the board shall have only advisory and consultative powers with respect to any such entities except as otherwise specifically provided in this chapter.

6. Have authority to enter into binding agreements, with respect to any matter within the jurisdiction of the conservancy district, with:

a. Any person, firm, corporation or association, the state of Iowa, or any of its political subdivisions.

b. The federal government, or any of the agencies thereof.

c. Other states or agencies or subdivisions thereof comparable in purpose to the district, provided all such agreements are entered into jointly with the department in accordance with other provisions of law.

7. Have authority to expend funds outside the state of Iowa, or in adjoining conservancy districts, pursuant to agreements made under subsection 6 of this section, where necessary in order to more effectively or efficiently achieve the objectives of this chapter, and to receive funds from other states for expenditure in Iowa, or from other conservancy districts for expenditure in the district receiving such funds.

8. Have authority to acquire by gift, lease, purchase, grant, or inheritance any property, real or personal, in fee or a lesser interest, needed to achieve the objectives of this chapter, and to sell and convey property owned but no longer needed by the conservancy district. The board shall also have authority to acquire by condemnation proceedings any real property, in fee or a lesser interest, needed to achieve the objectives of this chapter, but no condemnation proceedings shall be instituted by the board less than fifteen days after a letter has been sent by restricted certified mail to the owner or owners of the property sought, setting forth in detail the reasons why the property is needed and the board's best offer for the property.

9. Construct, operate, maintain, repair, enlarge, and make such internal improvements as are necessary to implement the conservancy district's overall plan.

10. Have authority to sue and be sued in the name of the conservancy district, and bring action to abate soil erosion nuisances in the manner prescribed by section 467D.23.

11. Maintain at its office a record of all the conservancy district's proceedings, rules and orders, and furnish copies of them to the department and the department of water, air and waste management upon request.

12. Establish, administer and direct various advisory committees as authorized by this chapter.

(83 Acts, ch 101, § 103) SF 136

Subsection 1 amended

(83 Acts, ch 137, § 28) SF 368

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 1 amended

467D.16 Plan — priorities — aid. The board shall prepare a plan for accomplishment of the objectives of this chapter within the conservancy district. For this purpose the board may request and shall obtain from any state agency or political subdivision information which the agency or subdivision has already collected which is pertinent to preparation of the plan, shall consult with soil conservation district commissioners, and may conduct hearings it deems necessary. The plan shall establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive water allocation plan established by the department of water, air and waste management pursuant to section 455B.263 and shall reflect the following general policies:

1. First consideration shall be given to work needed at or near the source of the streams in the district, and on or along the tributaries thereto, to the greatest extent practicable.

2. Conservancy district funds shall not be expended for functions or improvements which are:

a. The responsibility of other political subdivisions and are within their abilities, reasonable consideration being given to their other duties and obligations.

b. Constructed or implemented, or planned for construction or implementation, on one or more tracts of privately owned land and primarily benefit those lands rather than other lands in the conservancy district.

(83 Acts, ch 101, § 104) SF 136

Unnumbered paragraph 1 amended

467D.17 Plan presented to committee, department*, and soil conservation districts. The board shall tentatively adopt the plan by resolution and shall present the plan to the committee and the department* for review. The department* shall within ninety days review the plan as presented and make recommendations it deems necessary to bring the conservancy district's plan into conformity with the comprehensive water allocation plan established by the department* pursuant to section 455B.263. The recommendations of the department* shall be submitted to the board for incorporation into the plan. The plan shall then be submitted to the

soil conservation districts located entirely or partially within the conservancy district. The soil conservation districts shall review, comment and record a vote within ninety days indicating their support of or opposition to the plan in the same manner provided in section 467D.5, subsection 1. The committee shall inform the soil conservation districts of the votes of the districts within the conservancy district. The committee shall review the plan as presented, give consideration to the comments and vote of the soil conservation districts, give final approval or disapproval of the plan within ninety days, and provide a written statement detailing the basis of its decision.

A subsequent major change in the plan, as determined by the conservancy board, is not effective until approved by the process provided in this section for approval of the original plan.

(83 Acts, ch 101, § 105) SF 136

*Department of water, air and waste management probably intended
Amended

CHAPTER 470

LIFE CYCLE COST ANALYSIS OF PUBLIC FACILITIES

470.5 Exceptions. This chapter does not apply to buildings used on January 1, 1980 by the division of adult corrections of the department of human services as maximum security detention facilities or to the renovation of property nominated to, or entered in the national register of historic places, designated by statute, or included in an established list of historic places compiled by the executive director of the Iowa state historical department.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 471

EMINENT DOMAIN

471.4 Right conferred. The right to take private property for public use is hereby conferred:

1. *Counties.* Upon all counties for public purposes which are reasonable and necessary as an incident to the powers and duties conferred upon counties.

2. *Owners of land without a way to the land.* Upon the owner or lessee of lands, which have no public or private way to the lands, for the purpose of providing a public way, not exceeding forty feet in width, which will connect with an existing public road. The condemned public way shall be located on a division, subdivision or "forty" line, or immediately adjacent thereto, and along the line which is the nearest feasible route to an existing public road, or along a route established for a period of ten years or more by an easement of record or by use and travel to and from the property by the owner and the general public. The public way shall not interfere with buildings, orchards, or cemeteries. When passing through enclosed lands, the public way shall be fenced on both sides by the condemner upon request of the owner of the condemned land. The condemner or the condemner's assignee, shall provide easement for access to the owner of property severed by the condemnation. The public way shall be maintained by the condemner or the condemner's assignee, and shall not be considered any part of the primary or secondary road systems.

A public way condemned under this subsection shall not be considered an existing public road in subsequent condemnations to provide a public way for access to an existing public road.

3. *Owners of mineral lands.* Upon all owners, lessees, or possessors of land, for a railway right of way thereto not exceeding one hundred feet in width and located wherever necessary or practical, when such lands have no railway thereto and contain coal, stone, gravel, lead, or other minerals and such railway is necessary in order to reach and operate any mine, quarry, or gravel bed on said land and transport the products thereof to market. Such right of way shall not interfere with buildings, orchards, or cemeteries, and when passing through enclosed lands, fences shall be built and maintained on both sides thereof by the party condemning the land and by his assignees. The jury, in the assessment of damages, shall consider the fact that a railway is to be constructed thereon.

4. *Cemetery associations.* Upon any private cemetery or cemetery association which is incorporated under the laws of this state relating to corporations not for pecuniary profit, and having its cemetery located outside the limits of a city, for the purpose of acquiring necessary grounds for cemetery use or reasonable additions thereto. The right granted in this subsection shall not be exercised until the board of supervisors, of the county in which the land sought to be condemned is located, has, on written application and hearing, on such reasonable notice to all interested parties as it may fix, found that the land, describing it, sought to be condemned, is necessary for cemetery purposes. The association shall pay all costs attending such hearing.

5. *Subdistricts of soil conservation districts.* Upon a subdistrict of a soil conservation district for such land or rights or interests therein as are reasonable and necessary to carry out the purposes of the subdistrict.

6. *Cities.* Upon all cities for public purposes which are reasonable and necessary as an incident to the powers and duties conferred upon cities.

(83 Acts, ch 67, § 1) HF 364
Subsection 2 amended

471.6 Railways. The Iowa railway finance authority or any railway corporation, may acquire by condemnation property as necessary for the location, construction, and convenient use of a railway. The Iowa railway finance authority may acquire fee title or a lesser property interest. The authority shall offer to sell its interest in the property at fair market value to the adjoining property owners upon abandonment. The acquisition shall carry the right to use for the construction and repair of the railway and its appurtenances any earth, gravel, stone, timber, or other material, on or from the land taken.

(83 Acts, ch 121, § 9) SF 499
Amended

471.9 Additional purposes. The Iowa railway finance authority or a railway corporation may, by condemnation or otherwise, acquire lands for the following additional purposes:

1. For necessary additional depot grounds or yards.
2. For constructing a track or tracks to any mine, quarry, gravel pit, manufacturing plant, warehouse, or mercantile establishment.
3. For additional or new right of way for constructing double track, reducing or straightening curves, changing grades, shortening or relocating portions of the line, and for excavations, embankments, or places for depositing waste earth.
4. For the preservation of abandoned railroad right of way for future railroad use.

(83 Acts, ch 121, § 10) SF 499

Unnumbered paragraph 1 amended

471.10 Initiating railroad condemnation.

1. The railway corporation shall apply to the transportation regulation authority for permission to condemn. The authority may, after hearing, report to the district court clerk of the county in which the land is situated the description of the land sought to be condemned. The corporation may begin condemnation procedures in district court for the land described by the authority.

2. The railway finance authority may begin condemnation proceedings in district court.

(83 Acts, ch 121, § 11) SF 499
Struck and rewritten

471.11 Lands for water stations — how set aside. Lands which are sought to be condemned for water stations, dams, or reservoirs, including all the overflowed lands, if any, shall, if requested by the owner, be set aside in a square or rectangular shape by the transportation regulation authority or district court.

(83 Acts, ch 121, § 12) SF 499
Amended

471.15 Abandonment of right-of-way. Repealed by 83 Acts, ch 121, § 15. (SF 499)

471.16 Right to condemn abandoned right-of-way. Railroad right-of-way which has been abandoned by order of the proper authority, may be condemned by a railway corporation or the Iowa railway finance authority before or after the track materials have been removed. The procedure to condemn abandoned right-of-way shall be the same as for an original condemnation.

(83 Acts, ch 121, § 13) SF 499
Struck and rewritten

471.17 Procedure to condemn. Repealed by 83 Acts, ch 121, § 15. (SF 499)

471.18 No double damages. Owners of abandoned right-of-way which was originally condemned for rail purposes shall not receive additional compensation unless the track materials were removed prior to the second condemnation.

(83 Acts, ch 121, § 14) SF 499
Struck and rewritten

CHAPTER 474

IOWA STATE COMMERCE COMMISSION

474.1 Members — organization. The Iowa state commerce commission shall be composed of three members appointed by the governor and subject to confirmation by the senate, not more than two of whom shall be from the same political party, and each commissioner appointed shall serve for six-year staggered terms beginning and ending as provided by section 69.19. Vacancies shall be filled for the unexpired portion of the term as full-term appointments are filled.

On the second Tuesday of July of each year, the Iowa state commerce commission shall organize by electing one of its members as chairperson, and appointing an executive secretary, who shall take the same oath as the commissioners. The commission shall set the salary of the executive secretary within the limits of the pay plan for exempt positions provided for in section 19A.9, subsection 2, unless otherwise provided by the general assembly. The commission may employ additional personnel as it may find necessary.

As used in this chapter and chapter 475A, the words "commission" and "commerce commission" mean the Iowa state commerce commission.

(83 Acts, ch 127, § 6) HF 312
Unnumbered paragraph 3 amended

474.10 General counsel. The commission shall employ competent attorneys as the general counsel and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel shall be the attorney for, and legal advisor of, the commission and shall be exempt from chapter 19A.

Assistants to the general counsel shall be subject to chapter 19A. The general counsel or assistant to the general counsel shall provide the necessary legal advice to the commission in all matters and represent the commission in all actions instituted in a state or federal court challenging the validity of any rule, regulation, or order of the commission. The general counsel shall also represent the grain warehouse division in all administrative proceedings before the commission brought under chapters 542, 542A, and 543. The existence of a fact which disqualifies a person from election or acting as state commerce commissioner disqualifies the person from employment as general counsel or assistant general counsel. The general counsel shall devote the counsel's entire time of employment to the duties of the office; and during employment the counsel shall not be a member of a political committee, contribute to a political campaign fund other than through the income tax checkoff for contributions to the Iowa election campaign fund and the presidential election campaign fund, participate in a political campaign, or be a candidate for a political office.

(83 Acts, ch 127, § 7) HF 312

NEW section

CHAPTER 475

COMMERCE COUNSEL

Repealed by 83 Acts, ch 127, § 46-49, 52 (HF 312)

Transition provisions; 83 Acts, ch 127, § 46-49 (HF 312)

CHAPTER 475A

CONSUMER ADVOCATE

Transition provisions, applicability; 83 Acts, ch 127, § 46-51 (HF 312)

475A.1 Consumer advocate.

1. *Appointment.* After the general assembly convenes in 1983, and every four years thereafter, the governor shall appoint a competent attorney to the office of consumer advocate, subject to confirmation by the senate, in accordance with section 2.32. The advocate's term of office is for four years. The term begins and ends as provided in section 69.19.

2. *Vacancy.* If a vacancy occurs in the office of consumer advocate, the vacancy shall be filled for the unexpired term in the same manner as an original appointment under the procedures of section 2.32.

3. *Disqualification.* The existence of a fact which disqualifies a person from election or acting as state commerce commissioner under section 474.2 disqualifies the person from appointment or acting as consumer advocate.

4. *Political activity prohibited.* The consumer advocate shall devote the advocate's entire time to the duties of the office; and during the advocate's term of office the advocate shall not be a member of a political committee or contribute to a political campaign fund other than through the income tax checkoff for contributions to the Iowa election campaign fund and the presidential election campaign fund or take part in political campaigns or be a candidate for a political office.

5. *Removal.* The governor may remove the consumer advocate for malfeasance or nonfeasance in office, or for any cause which renders the advocate ineligible for appointment, or incapable or unfit to discharge the duties of the advocate's office; and the advocate's removal, when so made, is final.

(83 Acts, ch 127, § 8, 46) HF 312

Commerce counsel as appointed by the commerce commission is the first consumer advocate for a term beginning July 1, 1983 and ending April 30, 1985

NEW section

475A.2 Duties. The consumer advocate shall:

1. Investigate the legality of all rates, charges, rules, regulations, and practices of all persons under the jurisdiction of the Iowa state commerce commission, and institute civil proceedings before the commission or any court to correct any illegality on the part of any such person. In any such investigation, the person acting for the office of the consumer advocate shall have the power to ask the commission to issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents, at the discretion of the commission.

2. Act as attorney for and represent all consumers generally and the public generally in all proceedings before the Iowa state commerce commission.

3. Institute as a party judicial review of any decision of the Iowa state commerce commission, if the consumer advocate deems judicial review to be in the public interest.

4. Appear for all consumers generally and the public generally in all actions instituted in any state or federal court which involve the validity of a rule, regulation, or order of the Iowa state commerce commission.

5. Act as attorney for and represent all consumers generally and the public generally in proceedings before federal and state agencies and related judicial review proceedings and appeals, at the discretion of the consumer advocate.

6. Appear and participate as a party in the name of the office of consumer advocate in the performance of the duties of the office.

(83 Acts, ch 127, § 9) HF 312

NEW section

475A.3 Office — employees — expenses.

1. *Office.* The office of consumer advocate is at the seat of the government at the same location as the Iowa state commerce commission.

2. *Employees.* The consumer advocate may employ attorneys, legal assistants, secretaries, clerks, and other employees the consumer advocate finds necessary for the full and efficient discharge of the duties and responsibilities of the office. The consumer advocate may employ consultants as expert witnesses or technical advisors pursuant to contract in any proceeding in which the consumer advocate is a party.

3. *Salaries, expenses, and appropriation.* The salary of the consumer advocate shall be fixed by the general assembly. The salaries of employees of the consumer advocate and the reimbursement of expenses for the employees and the consumer advocate are as provided by law. The appropriation for the office of consumer advocate shall be a separate line item contained in the appropriation for the Iowa state commerce commission.

In establishing salaries and benefits for employees the consumer advocate shall provide for an affirmative action plan which shall be based upon guidelines provided by the Iowa state civil rights commission. In addition, when establishing salaries and benefits the consumer advocate shall not discriminate in the employment or pay between employees on the basis of gender by paying wages to employees at a rate less than the rate at which wages are paid to employees of the opposite gender for work of comparable worth. As used in this section "comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

The consumer advocate shall make a report to the legislative council which shall contain a copy of the affirmative action plan adopted and details regarding the manner in which compliance is made for establishing salaries and benefits based on comparable worth. The report shall be made to the legislative council as soon as possible after July 1, 1983 but not later than August 1, 1983, unless the legislative council shall extend the date for making the report.

(83 Acts, ch 127, § 10, 46) HF 312

Commerce counsel staff transferred to the office of the consumer advocate on July 1, 1983

NEW section

475A.4 Commerce commission records and employees.

1. The consumer advocate has free access to all the files, records, and documents in the office of the Iowa state commerce commission except:

a. Personal information in confidential personnel records of the commerce commission.

b. Records which represent and constitute the work product of the general counsel of the commerce commission, and records of confidential communications between commerce commissioners and their general counsel, where the records relate to a proceeding before the commerce commission in which the consumer advocate is a party or a proceeding in any state or federal court in which both the commerce commission and the consumer advocate are parties.

c. Customer information of a confidential nature which could jeopardize the customer's competitive status and is provided by the utility to the commission. Such information shall be provided to the consumer advocate by the commission, if the commission determines it to be in the public interest.

d. Financial statements which are confidential under section 542.16 or 543.24.

2. The consumer advocate may utilize employees of the commerce commission as expert witnesses or technical advisors in any proceeding in which the consumer advocate is a party. The consumer advocate may utilize employees of the commerce commission to assist in investigations and studies related to rates and services of utilities, as deemed appropriate by the commission. However, any commerce commission employee utilized by the consumer advocate shall not participate on behalf of the commission in its decision.

(83 Acts, ch 127, § 11) HF 312

NEW section

475A.5 Service. The consumer advocate is entitled to service of all documents required by statute or rule to be served on parties in proceedings before the Iowa state commerce commission and all notices, petitions, applications, complaints, answers, motions, and other pleadings filed pursuant to statute or rule with the commerce commission.

(83 Acts, ch 127, § 12) HF 312

NEW section

475A.6 Certification of expenses to commerce commission. The consumer advocate shall determine the advocate's expenses, including a reasonable allocation of general office expenses, directly attributable to participation in proceedings involving specific utilities, and shall certify the expenses to the Iowa state commerce commission not less than quarterly. The expenses shall then be includable in the expenses of the commerce commission subject to direct assessment under section 476.10.

The consumer advocate shall annually, within ninety days after the close of each fiscal year, determine the advocate's expenses, including a reasonable allocation of general office expenses, attributable to participation in proceedings involving public utilities generally, and shall certify the expenses to the commerce commission. The expenses shall then be includable in the expenses of the commission subject to remainder assessment under section 476.10.

The consumer advocate is entitled to notice and opportunity to be heard in any commerce commission proceeding on objection to an assessment for expenses certified by the consumer advocate. Expenses assessed under this section shall not exceed the amount appropriated for the office of consumer advocate.

(83 Acts, ch 127, § 13) HF 312

NEW section

475A.7 Consumer advisory panel. The governor shall appoint nine members to a consumer advisory panel to meet at the request of the consumer advocate for consultation regarding public utility regulation. A member shall be appointed

from each congressional district with the appointee residing within the congressional district at the time of appointment. The remaining appointees shall be members at large. No more than five members shall belong to the same political party as provided in section 69.16. The members shall serve four-year terms at the pleasure of the governor and their appointments are not subject to confirmation. The governor shall fill a vacancy in the same manner as the original appointment for the unexpired portion of the member's term. Members of the consumer advisory panel shall serve without compensation, but shall be reimbursed for actual expenses from funds appropriated to the office of consumer advocate.

(83 Acts, ch 127, § 14, 47) HF 312

Initially, four members shall be appointed for terms which expire on April 30, 1985 and five members shall be appointed for terms which expire on April 30, 1987

NEW section

CHAPTER 476

PUBLIC UTILITY REGULATION

476.1 Applicability of authority. The Iowa state commerce commission shall regulate the rates and services of public utilities to the extent and in the manner hereinafter provided.

As used in this chapter, "commission" or "commerce commission" means the Iowa state commerce commission.

As used in this chapter, "public utility" shall include any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for:

1. Furnishing gas by piped distribution system or electricity to the public for compensation.
2. Furnishing communications services to the public for compensation.
3. Furnishing water by piped distribution system to the public for compensation.

Mutual telephone companies in which at least fifty percent of the users are owners, co-operative telephone corporations or associations, telephone companies having less than fifteen thousand stations, municipally owned utilities, and unincorporated villages which own their own distribution system are not subject to the rate regulation provided for in this chapter.

This chapter does not apply to water works having less than two thousand customers, municipally owned water works, or rural water districts incorporated and organized pursuant to chapters 357A and 504A, or to a person furnishing electricity to five or fewer customers from electricity that is produced primarily for the person's own use.

A telephone company otherwise exempt from rate regulation and having telephone exchange facilities which cross state lines may elect, in a writing filed with the commission, to have its rates regulated by the commission. When a written election has been filed with the commission, the commission shall assume rate regulation jurisdiction over the company.

The jurisdiction of the commission under this chapter shall include programs designed to promote the use of energy conservation strategies by rate or service-regulated gas and electric utilities. These programs shall be cost effective. The commission may initiate these programs as pilot projects to accumulate sufficient data to determine if the programs meet the requirements of this paragraph.

The jurisdiction of the commission as to the regulation of communications services is not applicable to a service or facility provided by a telephone utility that is or becomes subject to competition, as determined by the commission. In determining whether a service or facility is or becomes subject to competition, the commission shall consider whether a comparable service or facility is available from a supplier other than the telephone utility. When a service or facility provided by a telephone

utility becomes subject to competition, the commission shall, within a reasonable period of time, deregulate that service or facility. Upon deregulation, all investment, revenues, and expenses associated with the service or facility shall be removed from the telephone utility's regulated operations and shall not be considered by the commission in setting rates for the telephone utility unless they continue to affect the company's regulated operations. In the event that the commission considers investment, revenues, and expenses associated with unregulated services or facilities in setting rates for the telephone utility, the commission shall not use any profits or costs from such unregulated services or facilities to determine the rates for regulated services or facilities. Nothing in this section shall preclude the commission from considering the investment, revenues and expenses associated with the sale of classified directory advertising by a telephone utility in determining rates for the telephone utility.

(83 Acts, ch 127, § 15, 16) HF 312

New unnumbered paragraphs 2 and 8

476.3 Complaints — investigation.

1. A public utility shall furnish reasonably adequate service at rates and charges in accordance with tariffs filed with the commission. When there is filed with the commission by any person or body politic, or filed by the commission upon its own motion, a written complaint requesting the commission to determine the reasonableness of the rates, charges, schedules, service, regulations, or anything done or omitted to be done by a public utility subject to this chapter in contravention of this chapter, the written complaint shall be forwarded by the commission to the public utility, which shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be specified by the commission. Copies of the written complaint forwarded by the commission to the public utility and copies of all correspondence from the public utility in response to the complaint shall be provided by the commission in an expeditious manner to the consumer advocate. If the commission determines the public utility's response is inadequate and there appears to be any reasonable ground for investigating the complaint, the commission shall promptly initiate a formal proceeding. If the consumer advocate determines the public utility's response to the complaint is inadequate, the consumer advocate may file a petition with the commission which shall promptly initiate a formal proceeding if the commission determines that there is any reasonable ground for investigating the complaint. The formal proceeding may be initiated at any time by the commission on its own motion. If a proceeding is initiated upon petition filed by the consumer advocate or upon the commission's own motion, the commission shall set the case for hearing and give notice as it deems appropriate. When the commission, after a hearing held after reasonable notice, finds a public utility's rates, charges, schedules, service, or regulations are unjust, unreasonable, discriminatory, or otherwise in violation of any provision of law, the commission shall determine just, reasonable, and nondiscriminatory rates, charges, schedules, service, or regulations to be observed and enforced.

2. If, as a result of a review procedure conducted under section 476.31, a review conducted under section 476.32, a special audit, an investigation by commission staff, or an investigation by the consumer advocate, a complaint is filed by commission staff, or a petition is filed with the commission by the consumer advocate, alleging that a utility's rates are excessive, the disputed amount shall be specified in the complaint or petition. The public utility shall, within the time prescribed by the commission, file a bond or undertaking approved by the commission conditioned upon the refund in a manner prescribed by the commission of amounts collected after the date of filing of the complaint or petition in excess of rates or charges finally determined by the commission to be lawful. If upon hearing the commission finds that the utility's rates are unlawful, the commission shall order a refund, with interest, of amounts collected after the date of filing of the complaint or petition that

are determined to be in excess of the amounts which would have been collected under the rates finally approved. However, the commission shall not order a refund that is greater than the amount specified in the complaint or petition, plus interest, and provided that if the commission fails to render a decision within ten months following the date of filing of the complaint or petition, the commission shall not order a refund of any excess amounts that are collected after the expiration of that ten-month period and prior to the date the decision is rendered.

3. A determination of utility rates by the commission pursuant to this section that is based upon a departure from previously established regulatory principles shall apply prospectively from the date of the decision.

(83 Acts, ch 127, § 17, 18) HF 312

Applies to complaints or petitions filed on or after July 1, 1983

Subsections 1 and 2 amended

476.6 Change of rates — directory assistance charges limited — hearing.

1. *Filing with commission.* A public utility subject to rate regulation shall not make effective a new or changed rate, charge, schedule or regulation until the rate, charge, schedule, or regulation has been approved by the commission, except as provided in subsections 11 and 13.

A subscriber of a telephone exchange or service, who is declared to be legally blind under section 422.12, subsection 1, paragraph "e", is exempt from any charges for telephone directory assistance that may be approved by the commerce commission.

2. *Telephone number must be listed.* Notwithstanding subsection 1 of this section, as of July 1, 1984, the Iowa state commerce commission shall not approve a schedule of telephone directory assistance charges unless the schedule provides that there shall not be a charge for directory assistance unless the telephone number requested is listed in the telephone directory most recently published and distributed by the utility.

3. *Telephone directory assistance charges — approval by commission.* Notwithstanding contrary provisions of this section, a public utility shall not implement a charge for telephone directory assistance or implement a new or changed rate for telephone directory assistance except pursuant to a tariff that has been filed with the commission and finally approved by the commission.

4. *First seven calls exempted.* A telephone directory assistance tariff that is approved by the commission on or after July 1, 1981, shall be subject to the limitation that a subscriber shall not be charged for the first seven directory assistance calls made from the subscriber's station during each of the first twelve months in which the tariff is in effect, and a charge made in violation of this limitation is an unlawful charge within the meaning of this chapter.

5. *Written notice of increase.* All public utilities, except those exempted from rate regulation by section 476.1, shall give written notice of a proposed increase of any rate or charge to all affected customers served by the public utility no more than sixty-two days prior to and prior to the time the application for the increase is filed with the commission. Public utilities exempted from rate regulation by section 476.1 shall give written notice of a proposed increase of any rate or charge to all affected customers served by the public utility at least thirty days prior to the effective date of the increase. If the public utility is subject to rate regulation, the notice to affected customers shall also state that the customer has a right to file a written objection to the rate increase and that the affected customers may request the commission to hold a public hearing to determine if the rate increase should be allowed. The commission shall prescribe the manner and method that the written notice to each affected customer of the public utility shall be served.

6. *Facts and arguments submitted.* At the time a public utility subject to rate regulation files with the commission an application for any new or changed rates, charges, schedules, or regulations, the public utility also shall submit factual evi-

dence and written argument offered in support of the filing. If the filing is an application for a general rate increase, the utility shall also file affidavits containing testimonial evidence to be offered in support of the filing, although this requirement does not apply if the public utility is a rural electric cooperative.

7. *Hearing set.* After the filing of an application for new or changed rates, charges, schedules, or regulations by a public utility subject to rate regulation, the commission, prior to the expiration of thirty days after the filing date, shall docket the case as a formal proceeding and set the case for hearing unless the new or changed rates, charges, schedules, or regulations are approved by the commission. In the case of a rural electric cooperative, the commission may docket the case as a formal proceeding and set the case for hearing prior to the proposed effective date of the tariff. The commission shall give notice of formal proceedings as it deems appropriate. The docketing of a case as a formal proceeding suspends the effective date of the new or changed rates, charges, schedules, or regulations until the rates, charges, schedules, or regulations are approved by the commission, except as provided in subsection 13.

8. *Utility hearing expenses reported.* When a case has been docketed as a formal proceeding under subsection 7, the public utility, within a reasonable time thereafter, shall file with the commission a report outlining the utility's expected expenses for litigating the case through the time period allowed by the commission in rendering a decision. At the conclusion of the utility's presentation of comments, testimony, exhibits, or briefs the utility shall submit to the commission a listing of the utility's actual litigation expenses in the proceeding. As part of the findings of the commission under subsection 9, the commission shall allow recovery of costs of the litigation expenses over a reasonable period of time to the extent the commission deems the expenses reasonable and just.

9. *Finding by commission.* If, after hearing and decision on all issues presented for determination in the rate proceeding, the commission finds the proposed rates, charges, schedules, or regulations of the utility to be unlawful, the commission shall by order authorize and direct the utility to file new or changed rates, charges, schedules, or regulations which, when approved by the commission and placed in effect, will satisfy the requirements of this chapter. The rates, charges, schedules, or regulations so approved are lawful and effective upon their approval.

10. *Limitation on filings.* A public utility shall not make a subsequent filing of an application for a new or changed rate, charge, schedule, or regulation which relates to services for which a rate filing is pending within twelve months following the date the prior application was filed or until the commission has issued a final order on the prior application, whichever date is earlier, unless the public utility applies to the commission for authority and receives authority to make a subsequent filing at an earlier date.

11. *Automatic adjustments permitted.* This chapter does not prohibit a public utility from making provision for the automatic adjustment of rates and charges for public utility service provided that a schedule showing the automatic adjustment of rates and charges is first filed with the commission.

If an automatic adjustment is used, the adjustment must be reduced to zero at least once in every twelve-month period, and all appropriate charges collected by the automatic adjustment shall be incorporated in the utility's other rates at that time.

12. *Rate levels for telephone utilities.* The commission may approve a schedule of rate levels for any regulated service provided by a utility providing communication services.

13. *Temporary authority.* Upon the request of a public utility, the commission shall, when required by this subsection, grant the public utility temporary authority to place in effect any or all of the suspended rates, charges, schedules or regulations by filing with the commission a bond or other undertaking approved by the commis-

sion conditioned upon the refund in a manner to be prescribed by the commission of any amounts collected in excess of the amounts which would have been collected under rates, charges, schedules or regulations finally approved by the commission. In determining that portion of the new or changed rates, charges, schedules or regulations to be placed in effect prior to a final decision, the commission shall apply previously established regulatory principles and shall, at a minimum, permit rates and charges which will allow the utility the opportunity to earn a return on common stock equity equal to that which the commission held reasonable and just in the most recent rate case involving the same utility or the same type of utility service, provided that if the most recent final decision of the commission in an applicable rate case was rendered more than twelve months prior to the date of filing of the request for temporary rates, the commission shall in addition consider financial market data that is filed or that is otherwise available to the commission and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions. The commission shall render a decision on a request for temporary authority within ninety days after the date of filing of the request. The decision shall be effective immediately. If the commission has not rendered a final decision with respect to suspended rates, charges, schedules or regulations upon the expiration of ten months after the filing date, plus the length of any delay that necessarily results either from the failure of the public utility to exercise due diligence in connection with the proceedings or from intervening judicial proceedings, plus the length of any extension permitted by section 476.33, subsection 3, then those portions that were approved by the commission on a temporary basis shall be deemed finally approved by the commission and the utility may place them into effect on a permanent basis, and the utility also may place into effect subject to refund and until the final decision of the commission any portion of the suspended rates, charges, schedules or regulations not previously approved on a temporary basis by filing with the commission a bond or other undertaking approved by the commission.

If the commission finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the commission may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity, the filing date of new or changed rates, charges, schedules or regulations shall, for purposes of computing the ninety-day and ten-month limitations stated above, be the date as determined by the commission that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules or regulations that are necessarily connected with the inclusion of the generating facility in the rate base.

The commission shall determine the rate of interest to be paid by a public utility to persons receiving refunds. The interest rate to be applied to refunds of moneys collected subject to refund under this subsection is two percent per annum plus the average quarterly interest rate at commercial banks for twenty-four-month loans for personal expenditures, as determined by the commission, compounded annually. The commission shall consider federal reserve statistical release G.19 or its equivalent when determining interest to be paid under this subsection.

14. *Refunds passed on to customers.* If pursuant to federal law or rule a rate-regulated public utility furnishing gas to customers in the state receives a refund or credit for past gas purchases, the savings shall be passed on to the customers in a manner approved by the commission. Similarly, if pursuant to federal law or rule

a rate-regulated public utility furnishing gas to customers in the state receives a rate for future gas purchases which is lower than the price included in the public utility's approved rate application, the savings shall be passed on to the customers in a manner approved by the commission.

15. *Natural gas supply and cost review.* The commerce commission shall periodically, but not less than annually, conduct a proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The natural gas supply and cost review shall be conducted as a contested case pursuant to chapter 17A.

Under procedures established by the commerce commission, each rate-regulated public utility furnishing gas shall periodically file a complete natural gas procurement plan describing the expected sources and volumes of its gas supply and changes in the cost of gas anticipated over a future twelve-month period specified by the commission. The plan shall describe all major contracts and gas supply arrangements entered into by the utility for obtaining gas during the specified twelve-month period. The description of the major contracts and arrangements shall include the price of gas, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. The plan shall also include the utility's evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in the plan, an explanation of the legal and regulatory actions taken by the utility to minimize the cost of gas purchased by the utility, and such other information as the commission may require.

Contemporaneously with the natural gas procurement plan, the public utility shall file with the commission a five-year forecast of the gas requirement of its customers, its anticipated sources of supply, and projections of gas costs. The forecast shall include a description of all relevant major contracts and gas supply arrangements entered into or contemplated between the gas utility and its suppliers, a description of all major gas supply arrangements which the gas utility knows have been, or expects will be, entered into between the utility's principal pipeline suppliers and their major sources of gas, and such other information as the commission may require.

During the natural gas supply and cost review, the commission shall evaluate the reasonableness and prudence of the gas procurement plan. In evaluating the gas procurement plan, the commission shall consider the volume, cost, and reliability of the major alternative gas supplies available to the utility; the cost of alternative fuels available to the utility's customers; the availability of gas in storage; the appropriate legal and regulatory actions which the utility could take to minimize the cost of purchased gas; the gas procurement practices of the utility; and other relevant factors. If a utility is not taking all reasonable actions to minimize its purchase gas costs, consistent with assuring an adequate long-term supply of natural gas, the commission shall not allow the utility to recover from its customers purchase gas costs in excess of those costs that would be incurred under reasonable and prudent policies and practices.

The commission shall also evaluate the five-year forecast filed by the public utility. The commission may indicate any cost items in the five-year forecast that on the basis of present evidence in the record the commission would be unlikely to permit the utility to recover from its customers in rates, charges or purchased gas clauses established in the future. Nothing in this section prohibits the commission from disallowing the recovery of other related or unrelated costs on the basis of evidence received in a later contested case proceeding.

The commission shall adopt rules pursuant to chapter 17A to implement the provisions of this section prior to January 1, 1984.

16. *Annual electric energy supply and cost review.* The commerce commission shall conduct an annual proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's procurement and contracting

practices related to the acquisition of fuel for use in generating electricity. The proceeding shall be conducted as a contested case pursuant to chapter 17A. Under procedures established by the commerce commission, the utility shall file information as the commission deems appropriate. If a utility is not taking all reasonable actions to minimize its fuel costs, the commission shall not allow the utility to recover from its customers fuel costs in excess of those costs that would be incurred under reasonable and prudent policies and practices.

Contemporaneously with the annual review proceeding, the commission shall analyze the electric generating capacity needs for the next decade by the public utility's customers, under procedures established by the commission. The utility shall file information regarding future capacity needs of its customers as deemed appropriate by the commission.

(83 Acts, ch 127, § 19—26, 51) HF 312

Applies to rate increase applications filed on or after July 1, 1983

Subsections 1 and 5 amended

Subsections 6-10 struck and rewritten

NEW subsections 11 through 16

476.8 Utility charges and service. Every public utility is required to furnish reasonably adequate service and facilities. "Reasonably adequate service and facilities" for public utilities furnishing gas or electricity includes programs for customers to encourage the use of energy conservation and renewable energy sources. The charge made by any public utility for any heat, light, gas, energy conservation and renewable energy programs, water or power produced, transmitted, delivered or furnished, or communications services, or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. In determining reasonable and just rates, the commission shall consider all factors relating to value and shall not be bound by rate base decisions or rulings made prior to the adoption of this chapter.

The commission, in determining the value of materials or services to be included in valuations or costs of operations for rate-making purposes, may disallow any unreasonable profit made in the sale of materials or to services supplied for any public utility by any firm or corporation owned or controlled directly or indirectly by such utility or any affiliate, subsidiary, parent company, associate or any corporation whose controlling stockholders are also controlling stockholders of such utility. The burden of proof shall be on the public utility to prove that no unreasonable profit is made.

(83 Acts, ch 127, § 27) HF 312

Unnumbered paragraph 1 amended

476.10 Investigations — expense. When the commission deems it necessary in order to carry out the duties imposed upon it by this chapter for the purpose of determining rate matters to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, or to review the operations or annual reports of the public utility under section 476.31 or 476.32, the public utility shall pay the expense reasonably attributable to the investigation, appraisal, service, or review. The commission shall ascertain the expenses including certified expenses incurred by the office of consumer advocate directly chargeable to the public utility under section 475A.6, and shall render a bill, by certified mail, to the public utility, either at the conclusion of the investigation, appraisal, services, or review, or from time to time during its progress, which bill is notice of the assessment and shall demand payment. The total amount of such expense in any one calendar year, for which any public utility shall become liable, shall not exceed two-tenths of one percent of its gross operating revenues derived from intrastate public utility operations in the last preceding calendar year.

The commission shall ascertain the total of its expenditures during each year which are reasonably attributable to the performance of its duties under this chapter. The commission shall add to this total the certified expenses of the consumer advocate as provided under section 475A.6 and shall deduct all amounts chargeable directly to any specific utility under any law. The remainder shall be assessed by the commission to the public utilities in proportion to their respective gross operating revenues during the last calendar year derived from intrastate public utility operations and shall be assessed within ninety days of the close of the calendar year based upon an estimate of the commission expenditures for the first half of the commission's fiscal year and again within ninety days of the close of the fiscal year as necessary to conform the amount of the assessment to the requirements of this section. Public utilities exempt from rate regulation under this chapter shall not be assessed for remainder expenses incurred during review of rate-regulated public utilities under section 476.31 or 476.32, but such remainder expenses shall be assessed proportionally as provided in this section among only the rate-regulated public utilities. The total amount which may be assessed to the public utilities under authority of this paragraph shall not exceed two-tenths of one percent of the total gross operating revenues of the public utilities during the calendar year derived from intrastate public utility operations. However, the total amount which may be assessed in any one calendar year to a public utility under this section shall not exceed three-tenths of one percent of the utility's total gross operating revenues derived from intrastate public utility operation in the last preceding year. For public utilities exempted from rate regulation under this chapter, the assessments under this paragraph shall be computed at one-half the rate used in computing the assessment for other utilities.

Each utility shall pay the commission the amount assessed against it within thirty days from the time the commission mails notice to it of the amount due unless it shall file with the commission objections in writing setting out the grounds upon which it claims that such assessment is excessive, erroneous, unlawful, or invalid. Upon the filing of such objections the commission shall set the matter down for hearing and issue its order in accordance with its findings in such proceeding, which order shall be subject to review in the manner provided in this chapter. All amounts collected by the commission pursuant to the provisions of this section shall be deposited with the state treasurer and credited to the general fund of the state. Such amounts shall be spent in accordance with the provisions of chapter 8.

Whenever the commission shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the commission may employ additional temporary or permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the commission to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the commission by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section.

(83 Acts, ch 127, § 28) HF 312

Unnumbered paragraphs 1 and 2 amended

476.13 Judicial review.

1. Notwithstanding the Iowa administrative procedure Act, the district court for Polk county or for the county in which a public utility maintains its principal place of business has exclusive venue for the judicial review under chapter 17A of actions of the commission pursuant to rate-regulatory powers over that public utility.

2. Upon the filing of a petition for judicial review in an action referred to in subsection 1, the clerk of the district court shall notify the chief justice of the supreme court for purposes of assignment of a district judge under section 602.23. The judicial review proceeding shall be heard by the district judge appointed by the supreme court under section 602.23, but in the county of venue under subsection 1.

3. Notwithstanding the Iowa administrative procedure Act, if a public utility seeks judicial review of an order approving rates for the public utility, the level of rates that may be collected, under bond and subject to refund, while the appeal is pending shall be limited to the level of the temporary rates set by the commission, or the level of the final rates set by the commission, whichever is greater. During the period the judicial review proceeding is pending, the commission shall retain jurisdiction to determine the rate of interest to be paid on any refunds eventually required on rates collected during judicial review.

(83 Acts, ch 127, § 29) HF 312

Struck and rewritten

476.18 Impermissible charges.

1. Public utilities subject to rate regulation are prohibited from including either directly or indirectly in their charges or rates to customers the costs of lobbying.

2. Legal costs and attorney fees incurred by a public utility subject to rate regulation in an appeal in state or federal court involving the validity of any action of the commission shall not be included either directly or indirectly in the public utility's charges or rates to customers except to the extent that recovery of legal costs and attorney fees is allowed by the commission. The commission shall allow a public utility to recover reasonable legal costs and attorney fees incurred in the appeal. The commission may consider the degree of success of the legal arguments of the public utility in determining the reasonable legal costs and attorney fees to be allowed.

3. Public utilities subject to rate regulation are prohibited from including either directly or indirectly in their charges or rates to customers the costs of advertising other than advertising which is required by the commerce commission or by other state or federal regulation. However, this subsection does not apply to a utility's advertising which is deemed by the commission to be necessary for the utility's customers and which is approved by the commission.

4. This section does not apply to a rural electric cooperative.

(83 Acts, ch 127, § 30) HF 312

NEW section

476.20 Customer payments, abandonment and termination of service — deposits.

1. A utility shall not, except in cases of emergency, discontinue, reduce, or impair service to a community, or a part of a community, except for nonpayment of account or violation of rules and regulations, unless and until permission to do so is obtained from the commission.

2. The commerce commission shall establish rules requiring a regulated public utility furnishing gas or electricity to include in the utility's notice of pending disconnection of service a written statement advising the customer that the customer may be eligible to participate in the low income home energy assistance program or weatherization assistance program administered by the energy policy council. The written statement shall also state that the customer is advised to contact the public utility to settle any of the customer's complaints with the public utility, but if a complaint is not settled to the customer's satisfaction, the customer may file the

complaint with the commerce commission. The written statement shall include the address and phone number of the commerce commission. The commerce commission shall establish rules requiring that the written notice contain such additional information as it deems necessary and appropriate.

3. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to disconnection of service.

4. A public utility which violates a provision of this section relating to the disconnection of service or which violates a rule of the commerce commission relating to disconnection of service is subject to civil penalties imposed by the commission under section 476.51.

5. The commerce commission shall establish rules which shall be uniform with respect to all public utilities furnishing gas or electricity relating to deposits which may be required by the public utility for the initiation or reinstatement of service. The deposit for a residence which has previously received service shall not be greater than the highest billing of service for one month to the residence in the previous twelve-month period. This subsection does not prohibit a public utility from requiring payment of a customer's past due account with the utility prior to reinstatement of service.

(83 Acts, ch 127, § 31) HF 312

Subsection 1 amended

NEW subsections 2 through 5

476.33 Rules governing hearings.

1. The commission shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within ten months after the date of the filing of a complaint or petition under section 476.3, subsection 2, and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or commission staff for good cause shown.

2. Additional time granted to a party or to commission staff under subsection 1 shall not extend the amount of time for which a utility is required to file a bond or other undertaking conditioned upon refund under section 476.3, subsection 2.

3. If in a proceeding under section 476.6 additional time is granted to a party or commission staff under subsection 1, the commission may extend the ten-month period during which a utility is prohibited from placing its entire rate increase request into effect under section 476.6, but an extension shall not exceed the aggregate amount of all additional time granted under subsection 1.

4. The commission shall adopt rules that require the commission, in rate regulatory proceedings under sections 476.3 and 476.6, to consider the use of the most current test period possible in determining reasonable and just rates, subject only to the availability of existing and verifiable data respecting costs and revenues, and in addition to consider verifiable data that exists as of the date of commencement of the proceedings respecting known and measurable changes in costs not associated with a different level of revenue, and known and measurable revenues not associated with a different level of costs, that are to occur at any time within twelve months after the date of commencement of the proceedings. For purposes of this subsection, a proceeding commences under section 476.6 upon the filing date of new or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the commission to consider other evidence in proceedings under sections 476.3 and 476.6.

(83 Acts, ch 127, § 32, 33) HF 312

Subsections 1 and 3 amended

476.41 Purpose. It is the policy of this state to encourage the development of alternate energy production facilities and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient use.
(83 Acts, ch 182, § 2) SF 380
NEW section

476.42 Definitions. As used in this division, unless the context otherwise requires:

1. "*Alternate energy production facility*" means any or all of the following:
 - a. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, or woodburning facility.
 - b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
 - c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.
2. "*Electric utility*" means a public utility that furnishes electricity to the public for compensation.
3. "*Small hydro facility*" means any or all of the following:
 - a. A hydroelectric facility at a dam.
 - b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
 - c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(83 Acts, ch 182, § 3) SF 380

NEW section

476.43 Rates for alternate energy production facilities.

1. Subject to section 476.44, the commission shall require electric utilities to enter into long-term contracts to do the following:
 - a. Purchase or wheel electricity from alternate energy production facilities or small hydro facilities located in the utility's service area under the terms and conditions that the commission finds are just and economically reasonable to the electric utilities' ratepayers, are nondiscriminatory to alternate energy producers and small hydro producers and will further the policy stated in section 476.41.
 - b. Provide for the availability of supplemental or backup power to alternate energy production facilities or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.
- 2.* Upon application by the owner or operator of an alternate energy production facility or small hydro facility or any interested party, the commission shall establish for the affected public utility just and economically reasonable rates for electricity purchased under subsection 1, paragraph "a". The rates shall be established at levels sufficient to stimulate the development of alternate energy production and small hydro facilities in Iowa and to encourage the continuation of existing capacity from those facilities.
3. The commission shall base the rates for new facilities or new capacity from existing facilities on the following factors:
 - a. The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the electric utility serving the area.
 - b. The term of the contract between the electric utility and the seller.
 - c. A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the electric utility's new construction program.
 - d. The electric utility's annual energy costs, including current fuel costs, related

operation and maintenance costs, and other energy-related costs considered appropriate by the commission.

4. The commission shall consider the factors listed in subsection 3 in setting rates for existing facilities. However, the commission may consider other factors and may establish a rate for existing facilities that is less than the rate established for new facilities if the commission determines that a lower rate is sufficient to encourage small power production.

5. In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be equal to the current cost to the electric utility of similar types and quantities of electrical service.

6. In lieu of the other procedures provided by this section, an electric utility and an owner or operator of an alternate energy production facility or small hydro facility may enter into a long-term contract in accordance with subsection 1 and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the commission in the manner provided for tariffs under section 476.4.

7. This section does not require an electric utility to construct additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility or small hydro facility.

(83 Acts, ch 182, § 4, 7) SF 380

*Until July 1, 1986, the rate for a new facility shall not exceed eight cents per kilowatt hour

NEW section

476.44 Exceptions.

1. The commission shall not require an electric utility to purchase or wheel electricity from an alternate energy production facility or small hydro facility unless the facility meets all of the following conditions:

- a. Has an electric generating capacity of not more than eighty megawatts.
- b. Is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that:
 - (1) Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.
 - (2) Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

2. The commission shall not require an electric utility to purchase or wheel electricity from a small hydro facility unless the facility has an electric generating capacity of not more than eighty megawatts.

(83 Acts, ch 182, § 5) SF 380

NEW section

476.45 Exemption from excess capacity. Capacity purchased from an alternate energy production facility or small hydro facility shall not be included in a calculation of an electric utility's excess generating capacity for rate-making purposes.

(83 Acts, ch 182, § 6) SF 380

NEW section

476.51 Civil penalty. A public utility which willfully violates a provision of this chapter, a rule adopted by the commission, or a provision of an order lawfully issued by the commission, is subject to a civil penalty, which may be levied by the commission, of not more than one hundred dollars per violation or one thousand dollars per day of a continuing violation, whichever is greater. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the commission to the treasurer of state to be credited to the energy research and development fund and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the energy

policy council. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

(83 Acts, ch 127, § 34) HF 312

NEW section

476.52 Management efficiency. It is the policy of this state that a public utility shall operate in an efficient manner. If the commission determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in an inefficient manner, or is not exercising ordinary, prudent management, or in comparison with other utilities in the state the commission determines that the utility is performing in a less beneficial manner than other utilities, the commission may reduce the level of profit or adjust the revenue requirement for the utility to the extent the commission believes appropriate to provide incentives to the utility to correct its inefficient operation. If the commission determines in the course of a proceeding conducted under section 476.3 or 476.6 that a utility is operating in such an extraordinarily efficient manner that tangible financial benefits result to the ratepayer, the commission may increase the level of profit or adjust the revenue requirement for the utility. The commission shall adopt rules for determining the level of profit or the revenue requirement adjustment that would be appropriate.

The commission shall also adopt rules establishing a methodology for an analysis of a utility's management efficiency.

(83 Acts, ch 127, § 35) HF 312

NEW section

476.53 Excess capacity. It is the intent of the general assembly of the state of Iowa to provide for the development of a fair resolution concerning the allocation of costs associated with excess electric generating capacity. It is the policy of this state that it is in the public interest that public utilities subject to rate regulation, at a minimum, be prohibited from including either directly or indirectly in their charges or rates to customers the return on common equity associated with excess electric generating capacity, however this shall not apply to rural electric cooperatives. The commerce commission shall not allow a return on common equity on that portion of a public utility's electric generating capacity which is determined to be excess electric generating capacity. Excess electric generating capacity is that portion of the public utility's electric generating capacity which exceeds the amount reasonably necessary to provide adequate and reliable service as determined by the commission.

Electric generating capacity sold pursuant to the terms of contracts entered into between June 28, 1978 and June 30, 1978 for power delivered on or before May 1, 1983 to May 1, 1993, shall not be included in the determination of excess electric generating capacity.

Electric generating capacity purchased from qualifying cogeneration and small power production facilities shall not be included in the determination of excess electric generating capacity.

(83 Acts, ch 127, § 36, 50) HF 312

Applies to rates approved after July 1, 1983 if a rate includes the cost of a plant going on line after that date; otherwise applies to rate applications filed on or after that date

NEW section

476.54 Delayed payment charges. A public utility shall not apply delayed payment charges on a customer's account if the scheduled payment was made by the customer within twenty days from the date the billing was sent to the customer. Delayed payment charges on a customer's account shall not exceed one and one-half percent per month of the past-due amount.

(83 Acts, ch 127, § 37) HF 312

NEW section

476.55 Complaint of antitrust activities. An application for new or changed rates, charges, schedules or regulations filed under this chapter, or an application for a certificate or an amendment to a certificate submitted under chapter 476A, by an electric transmission line utility or a gas pipeline utility or a subsidiary of either shall not be approved by the commerce commission if, upon complaint by an Iowa electric or gas utility, the commission finds activities which create or maintain a situation inconsistent with antitrust laws and the policies which underlie them. The commission may grant the rate or facility certification request once it determines that those activities which led to the antitrust complaint have been eliminated. However, this subsection does not apply to an application for new or changed rates, charges, schedules or regulations after the expiration of the ten-month limitation and applicable extensions.

(83 Acts, ch 127, § 38) HF 312

NEW section

CHAPTER 476A

ELECTRIC POWER GENERATORS

476A.6 Decision — criteria. The commission shall render a decision on the application in an expeditious manner. A certificate shall be issued to the applicant if the commission finds all of the following:

1. The services and operations resulting from the construction of the facility are required by the present or future public convenience, use and necessity.

2. The applicant is willing to perform such services and construct, maintain, and operate the facility pursuant to the provisions of the certificate and this chapter.

3. The construction, maintenance, and operation of the facility will cause minimum adverse land use, environmental, and aesthetic impact and are consonant with reasonable utilization of air, land and water resources for beneficial purposes considering available technology and the economics of available alternatives.

4. The applicant has in effect a comprehensive energy management program designed to reduce peak loads and to increase efficiency of use of energy by all classes of customers of the utility, and the facility in the application is necessary notwithstanding the existence of the comprehensive energy management program. As used in this subsection, a "comprehensive energy management program" includes at a minimum the following:

a. Establishment of load management and interruptible service programs, where cost effective.

b. Development of wheeling agreements and other energy sharing agreements, where cost effective with utilities that have available capacity.

c. Establishment of cost-effective energy conservation and renewable energy services and programs.

d. Compliance with commission rules on energy management procedures.

5. The applicant has considered all feasible alternatives to the proposed facility including nongeneration alternatives; has ranked those alternatives by cost; has implemented the least-cost alternatives first; and the facility in the application is necessary notwithstanding the implementation of these alternatives.

(83 Acts, ch 127, § 39) HF 312

Unnumbered paragraph 1 and subsections 1 and 2 amended

NEW subsections 4 and 5

476A.15 Energy sharing agreements. Before a certificate is issued under section 476A.6, the public utility shall demonstrate to the commission that the utility has considered sources for long term electric supply from either purchase of electricity or investment in facilities owned by other utilities.

(83 Acts, ch 127, § 40) HF 312

NEW section

CHAPTER 478

ELECTRIC TRANSMISSION LINES

478.7 Form of franchise. The general counsel for the Iowa state commerce commission shall prepare a blank form of franchise, which shall provide space for a general description of the improvement authorized, the name and address of the person or corporation to whom granted, the general terms and conditions upon which the franchise is granted, and other things as necessary. This blank form shall be filled out and signed by the chairperson of the commission which grants the franchise, and the official seal shall be attached. The franchise is subject to regulations and restrictions as the general assembly prescribes, and to rules, not inconsistent with statutes, as the Iowa state commerce commission may establish.

(83 Acts, ch 127, § 41) HF 312
Amended

478.29 Penalty — enforcement. A person who strings or maintains wire across a railroad track in this state at a different height or in a different manner from that prescribed by the Iowa state commerce commission shall forfeit and pay to the state one hundred dollars for each separate period of ten days during which the wire is so maintained. The forfeiture shall be recovered in a civil action in the name of the state by the general counsel for the Iowa state commerce commission, or by the county attorney of the county in which the wire is situated, at the request of the state commerce commission.

(83 Acts, ch 127, § 42) HF 312
Amended

CHAPTER 479

PIPELINES AND UNDERGROUND GAS STORAGE

479.47 Subsequent tiling. All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.

Before performing earthwork, tiling, or excavation within three hundred feet of an existing pipeline, a landowner, tenant, contractor, or the representative of any one of them shall notify the pipeline company or its representative by calling the pipeline company telephone number listed on the roadside right-of-way marker. The pipeline company shall mark the location of the existing pipeline within forty-eight hours of notification with appropriate marker flags or stakes on the land surface directly above the pipeline for a distance of one hundred fifty feet either side of the proposed work site. Markers shall be placed at twenty-five foot intervals, where physically possible, along the pipeline route indicating the diameter of the pipeline. The pipeline company shall not charge the landowner, tenant, or contractor for the placement of the markers. Excavation, earthwork, or tiling shall not be commenced in that area until the markers are in place and the pipeline company representative is present and has notified the contractor of the depth at the site of crossing. The pipeline company representative shall be present during all the excavation, earthwork, or tiling within the marked area when that area is any one of the following:

- (1) Land located outside the corporate limits of a city.
- (2) Agricultural land within the corporate limits of a city.
- (3) Nonagricultural land within the corporate limits of a city when the pipeline

facility is operated at a pressure in excess of one hundred fifty pounds per square inch.

As used in this paragraph agricultural land means land of one or more acres suitable for cultivation for the production of crops, fruit or other horticultural purposes or for the grazing or production of livestock.

(83 Acts, ch 123, § 1, 2) SF 177

Effective May 22, 1983

Unnumbered paragraph 2 struck and rewritten

CHAPTER 491

CORPORATIONS FOR PECUNIARY PROFIT

491.1 Who may incorporate. Any number of persons may become incorporated under this chapter prior to July 1, 1971 for the transaction of any lawful business, but the incorporation confers no power or privilege not possessed by natural persons, except as provided in this chapter. All domestic corporations shall be organized* under chapter 496A only, except for corporations which are to become subject to one or more of the following chapters: 174, 176, 499, 499A, 504A, 506, 508, 510, 512, 514, 515, 515A, 518, 518A, 519, 524, 533, and 534.

(83 Acts, ch 101, § 106) SF 136

*After July 1, 1971

Amended

491.3 Powers. Among the powers of such corporations are the following:

1. To have perpetual succession.
2. To sue and be sued by its corporate name.
3. To have a common seal, which it may alter at pleasure.
4. To render the interests of the stockholders transferable.
5. To exempt the private property of its members from liability for corporate debts, except as otherwise declared.
6. To make contracts, acquire and transfer property - possessing the same powers in such respects as natural persons.
7. To establish bylaws, and make all rules and regulations necessary for the management of its affairs.
8. A corporation organized under or subject to this chapter may make indemnification as provided in section 496A.4A.

(83 Acts, ch 71, § 2) HF 606

Subsection 8 amended

491.16 Indemnification of officers, directors, employees and agents - insurance. The provisions of section 496A.4A shall apply to corporations organized under or subject to this chapter.

(83 Acts, ch 71, § 3) HF 606

Amended

CHAPTER 496A

BUSINESS CORPORATIONS

496A.4 General powers. Each corporation, unless otherwise stated in its articles of incorporation, shall have power:

1. To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.
2. To sue and be sued, complain and defend, in its corporate name.
3. To have a corporate seal which may be altered at pleasure, and to use the same

by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

4. To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated.

5. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

6. To lend money and use its credit to assist its employees. A corporation shall not lend money to or use its credit to assist its directors without authorization in the particular case by its shareholders, but may lend money to and use its credit to assist any employee of the corporation or of a subsidiary including any such employee who is a director of the corporation, if the board of directors decides that such loan or assistance may benefit the corporation.

7. To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

8. To make contracts and guaranties and incur liabilities, borrow money at such lawful rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income, and to guarantee the obligations of other persons.

9. To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

10. To conduct its business, carry on its operations, and have offices and exercise the powers granted by this chapter within or without this state.

11. To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

12. To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

13. To make donations for the public welfare, or for religious, charitable, scientific or educational purposes.

14. To transact any lawful business which the board of directors shall find will be in aid of governmental authority.

15. To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock-bonus plans, stock-option plans and other incentive, insurance and welfare plans for any or all of its directors, officers and employees.

16. To cease its corporate activities and surrender its corporate franchise.

17. To have and exercise all powers necessary or convenient to effect its purposes.

18. To enter into general partnerships, limited partnerships, whether the corporation be a limited or general partner, joint ventures, syndicates, pools, associations and other arrangements for carrying on of any or all of the purposes for which the corporation is organized, jointly or in common with others.

(83 Acts, ch 71, § 4) HF 606
Subsection 19 struck

496A.4A Indemnification of directors and officers.

1. As used in this section:

a. "Director" means any person who is or was a director of the corporation and any person who, while a director of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another

foreign or domestic corporation, partnership, joint venture, trust, other enterprise or employee benefit plan.

b. "Corporation" includes any domestic or foreign predecessor entity of the corporation in a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

c. "Expenses" includes attorneys' fees.

d. "Official capacity" means:

(1) When used with respect to a director, the office of director in the corporation, and

(2) When used with respect to a person other than a director, as contemplated in subsection 9, the elective or appointive office in the corporation held by the officer or the employment or agency relationship undertaken by the employee or agent in behalf of the corporation,

but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

e. "Party" includes a person who was, is, or is threatened to be made, a named defendant or respondent in a proceeding.

f. "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

2. A corporation shall have power to indemnify any person made a party to any proceeding by reason of the fact that the person is or was a director if:

a. The person acted in good faith; and

b. The person reasonably believed

(1) In the case of conduct in the person's official capacity with the corporation, that the conduct was in its best interests, and

(2) In all other cases, that the person's conduct was at least not opposed to its best interests, and

c. In the case of any criminal proceeding, the person had no reasonable cause to believe the person's conduct was unlawful.

Indemnification may be made against judgments, penalties, fines, settlements and reasonable expenses, actually incurred by the person in connection with the proceeding; except that if the proceeding was by or in the right of the corporation, indemnification may be made only against such reasonable expenses and shall not be made in respect of any proceeding in which the person shall have been adjudged to be liable to the corporation. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, be determinative that the person did not meet the requisite standard of conduct set forth in this subsection.

3. A director shall not be indemnified under subsection 2 in respect of any proceeding charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in which the director shall have been adjudged to be liable on the basis that personal benefit was improperly received by the director.

4. Unless limited by the articles of incorporation,

a. A director who has been wholly successful, on the merits or otherwise, in the defense of any proceeding referred to in subsection 2 shall be indemnified against reasonable expenses incurred by the director in connection with the proceeding; and

b. A court of appropriate jurisdiction, upon application of a director and such notice as the court shall require, shall have authority to order indemnification in the following circumstances:

(1) If it determines a director is entitled to reimbursement under paragraph "a", the court shall order indemnification, in which case the director shall also be entitled to recover the expenses of securing such reimbursement; or

(2) If it determines that the director is fairly and reasonably entitled to indem-

nification in view of all the relevant circumstances, whether or not the director has met the standard of conduct set forth in subsection 2 or has been adjudged liable in the circumstances described in subsection 3, the court may order such indemnification as the court shall deem proper, except that indemnification with respect to any proceeding by or in the right of the corporation or in which liability shall have been adjudged in the circumstances described in subsection 3 shall be limited to expenses.

A court of appropriate jurisdiction may be the same court in which the proceeding involving the director's liability took place.

5. No indemnification under subsection 2 shall be made by the corporation unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in subsection 2. Such determination shall be made:

a. By the board of directors by a majority vote of a quorum consisting of directors not at the time parties to the proceeding; or

b. By special legal counsel, selected by the board of directors by vote as set forth in paragraph "a" of this subsection 5, or, if the requisite quorum of the full board cannot be obtained therefor, by a majority vote of the full board, in which selection directors who are parties may participate; or

c. By the shareholders.

Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses shall be made in a manner specified in paragraph "b" of this subsection for the selection of such counsel. Shares held by directors who are parties to the proceeding shall not be voted on the subject matter under this subsection 5.

6. Reasonable expenses incurred by a director who is a party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of such proceeding upon receipt by the corporation of

a. A written affirmation by the director of the director's good faith belief that the director has met the standard of conduct necessary for indemnification by the corporation as authorized in this section, and

b. A written undertaking by or on behalf of the director to repay such amount if it shall ultimately be determined that the director has not met such standard of conduct, and

after determination that the facts then known to those making the determination would not preclude indemnification under this section. The undertaking required by this paragraph shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment. Determinations and authorizations of payments under this subsection 6 shall be made in the manner specified in subsection 5.

7. No provision for the corporation to indemnify or to advance expenses to a director who is made a party to a proceeding, whether contained in the articles of incorporation, the bylaws, a resolution of shareholders or directors, an agreement or otherwise, except as contemplated by subsection 10, shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent therewith. Nothing contained in this section shall limit the corporation's power to pay or reimburse expenses incurred by a director in connection with the director's appearance as a witness in a proceeding at a time when the director has not been made a named defendant or respondent in the proceeding.

8. For purposes of this section, the corporation shall be deemed to have requested

a director to serve an employee benefit plan whenever the performance by the director of the director's duties to the corporation also imposes duties on, or otherwise involves services by, the director to the plan or participants or beneficiaries of the plan; excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed fines; and action taken or omitted by the director with respect to an employee benefit plan in the performance of the director's duties for a purpose reasonably believed by the director to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

9. Unless limited by the articles of incorporation:

a. An officer of the corporation shall be indemnified as and to the same extent provided in subsection 4 for a director and shall be entitled to the same extent as a director to seek indemnification pursuant to the provisions of subsection 4;

b. A corporation shall have the power to indemnify and to advance expenses to an officer, employee or agent of the corporation to the same extent that it may indemnify and advance expenses to directors pursuant to this section; and

c. A corporation, in addition, shall have the power to indemnify and to advance expenses to an officer, employee or agent who is not a director to such further extent, consistent with law, as may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

10. A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise or employee benefit plan, against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status as such, whether or not the corporation would have the power to indemnify the person against such liability under the provisions of this section.

11. Any indemnification of, or advance of expenses to, a director in accordance with this section, if arising out of a proceeding by or in the right of the corporation, shall be reported in writing to the shareholders with or before the notice of the next shareholders' meeting.

(83 Acts, ch 71, § 1) HF 606

NEW section

496A.7 Corporate name. The corporate name:

1. Shall contain the word "corporation", "company", "incorporated" or "limited" or shall contain an abbreviation of one of such words.

2. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

3. Shall not be the same as, or deceptively similar to, the name of any domestic corporation or limited partnership existing under the laws of this state or any foreign corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter or chapter 545, or the name of a corporation which has in effect a registration of its corporate name as provided in this chapter, or an assumed name which has been adopted by a domestic or a foreign corporation for use in this state in the manner provided by this chapter except that this provision does not apply if the applicant files with the secretary of state either of the following:

a. The written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make such name distinguishable from the other name.

b. A certified copy of final decree of a court of competent jurisdiction establishing

the prior right of the applicant to the use of such name in this state. A corporation with which another domestic or foreign corporation is merged, or which is formed by the reorganization or consolidation of one or more domestic or foreign corporations or upon a sale, lease or other disposition to or exchange with a domestic corporation of all or substantially all the assets of another domestic or foreign corporation, including its name or assumed name, may have the same name as that used in this state by any of such corporations if such other corporation was organized under the laws of or is authorized to transact business in this state.

4. Shall be the name under which the corporation shall transact business in this state unless the corporation also shall elect to adopt one or more assumed names as provided in this chapter.

5. A corporation may elect to adopt an assumed name that is not the same as or deceptively similar to the corporate name of any other domestic corporation existing under the laws of this state or of any foreign corporation authorized to transact business in this state, or the same as or deceptively similar to any name registered or reserved under the provisions of this chapter.

Such election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth such assumed name and paying to the secretary of state a filing fee of forty dollars.

If such assumed name complies with the provisions of this chapter the secretary of state shall issue a certificate authorizing the use of said name, but such certificate shall not confer any right to the use of said name as against any person having any prior right to the use thereof.

At the time annual license fees are payable under this chapter, a corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of ten dollars for such assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of ten dollars shall be paid at the time of filing of the annual report in the second year following such December.

If the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of such nonpayment by registered or certified mail; and if such fee together with a penalty of ten dollars is not paid within sixty days after such notice is mailed, the right to use such assumed name shall cease.

A separate application and annual fee shall be filed and paid for each assumed name adopted by the corporation.

(83 Acts, ch 144, § 1) SF 435

Subsection 3, unnumbered paragraph 1 amended

496A.105 Corporate name or trade of foreign corporation. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

1. Shall contain the word "corporation", "company", "incorporated", or "limited", or shall contain an abbreviation of one of such words, or such corporation shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

2. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

3. Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its name as provided in this chapter, or an assumed name which has been adopted by a domestic or a foreign corporation for use in this state in the manner provided by this chapter except that this provision shall not apply if the foreign corporation applying for a certificate of authority files with the secretary of state any one of the following:

a. A resolution of its board of directors adopting an assumed name for use in transacting business in this state which assumed name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in this chapter.

b. The written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make such name distinguishable from such other name.

c. A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of such foreign corporation to the use of such name in this state.

The corporate name of such foreign corporation shall be the name under which the corporation shall transact its business in this state unless the corporation also shall elect to adopt one or more assumed names as provided in this chapter.

A foreign corporation authorized to transact business in this state may elect to adopt an assumed name that is not the same as or deceptively similar to the corporate name of any domestic corporation existing under the laws of this state or of any other foreign corporation authorized to transact business in this state, or the same as or deceptively similar to any name registered or reserved under the provisions of this chapter.

An election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth the assumed name and paying to the secretary of state a filing fee of forty dollars.

If such assumed name complies with the provisions of this chapter, the secretary of state shall issue a certificate authorizing the use of said name, but such certificate shall not confer any right to the use of said name as against any person having any prior right to the use thereof.

At the time annual license fees are payable under this chapter, a foreign corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of ten dollars for the assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of ten dollars shall be paid at the time of filing of the annual report in the second year following that December.

If the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of the nonpayment by registered or certified mail; and if the fee together with a penalty of ten dollars is not paid within sixty days after notice is mailed, the right to use the assumed name shall cease.

A separate application and annual fee shall be filed and paid for each assumed name adopted by a foreign corporation.

(83 Acts, ch 144, § 2, 3) SF 435

Unnumbered paragraphs 4, 6 and 7 amended

496A.124 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

1. Filing articles of incorporation and issuing a certificate of incorporation, fifty dollars.
2. Filing articles of amendment and issuing a certificate of amendment, fifty dollars.
3. Filing restated articles of incorporation, fifty dollars.
4. Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifty dollars.
5. Filing an application to reserve a corporate name, ten dollars.
6. Filing a notice of transfer of a reserved corporate name, ten dollars.
7. Filing a statement of change of address of registered office or change of registered agent, or both, five dollars. If a single statement of change changes the address of the registered office of more than one corporation, the fee shall be five dollars for each corporation the address of whose registered office is changed thereby.

8. Filing a statement of the establishment of a series of shares, ten dollars.
9. Filing a statement of cancellation of shares, ten dollars.
10. Filing a statement of reduction of stated capital, ten dollars.
11. Filing a statement of intent to dissolve, five dollars.
12. Filing a statement of revocation of voluntary dissolution proceedings, five dollars.
13. Filing articles of dissolution, five dollars.
14. Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, eighty dollars.
15. Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, eighty dollars.
16. Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, forty dollars.
17. Filing a copy of restated articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, eighty dollars.
18. Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, fifty dollars.
19. Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, ten dollars.
20. Filing any other statement or report, except an annual report, of a domestic or foreign corporation, five dollars.

(83 Acts, ch 144, § 4) SF 435

NEW subsection 17 and following subsections renumbered

CHAPTER 496B

ECONOMIC DEVELOPMENT CORPORATIONS

496B.16 Reports to development commission. Each development corporation is subject to the examination of the commission and shall make reports of its condition not less than annually to the commission. The commission shall make copies of the reports available to the commissioner of insurance and the superintendent of banking. Each development corporation shall also furnish other information as the commission may require. The development commission may request the superintendent of banking to examine the condition of a development corporation and to submit a report on the examination to the commission and the commissioner of insurance.

(83 Acts, ch 103, § 1) SF 387

Amended

CHAPTER 496C

PROFESSIONAL CORPORATIONS

496C.21 Annual report. Each annual report of a professional corporation or foreign professional corporation shall, in addition to the information required by the Iowa business corporation Act, set forth:

1. The name and address of each shareholder.
2. In the case of a professional corporation, a statement under oath whether or not all shareholders, directors, and officers, except assistant officers, of the corporation are licensed to practice in this state a profession which the corporation is authorized to practice, and whether or not all employees and agents of the corpora-

tion who practice a profession in this state on behalf of the corporation are licensed to practice the profession in this state.

3. In the case of a foreign professional corporation, a statement under oath whether or not all shareholders, directors, officers, employees, and agents who practice a profession in this state on behalf of the corporation are licensed to practice the profession in this state.

4. Additional information necessary or appropriate to enable the secretary of state or regulating board to determine whether the professional corporation or foreign professional corporation is complying with this chapter.

Information shall be set forth on forms prescribed and furnished by the secretary of state.

The original of each annual report of a professional corporation or foreign professional corporation shall be delivered to the secretary of state for filing. The provisions of the Iowa business corporation Act relating to annual license fee apply to professional corporations.

(83 Acts, ch 144, § 5) SF 435

Unnumbered paragraph 3

CHAPTER 502

IOWA UNIFORM SECURITIES ACT

(Blue Sky Law)

Interim advisory committee on securities regulation established;
83 Acts, ch 169, § 19 (HF 514)

502.102 Definitions. When used in this chapter, unless the context otherwise requires:

1. "Administrator" means the commissioner of insurance or the deputy appointed pursuant to section 502.601.

2. "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in:

a. Effecting transactions in a security exempted by section 502.202, subsection 1, 2, 3, 4, 6, 10, 11 or 12, or a security issued by an industrial loan company licensed under chapter 536A;

b. Effecting transactions exempted by section 502.203; or

c. Effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. "Agent" also does not include other individuals who are not within the intent of this subsection whom the administrator by rule or order designates. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition.

3. An "affiliate" of, or a person "affiliated" with, a specified person, means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

4. "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for such person's own account. "Broker-dealer" does not include:

a. An agent;

b. An issuer;

c. An institutional investor, including an insurance company or bank, except where the insurance company or bank is engaged in the business of selling interests (other than through a subsidiary) in a separate account that are securities;

d. A person who has no place of business in this state if such person:

(1) Effects transactions in this state exclusively with or through the issuers of the securities involved in the transaction; other broker-dealers; or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or

(2) During any period of twelve consecutive months does not effect transactions in this state in any manner with more than three persons other than those specified in subparagraph (1) of this paragraph, whether or not the offeror or any of the offerees is then present in this state;

e. Other persons not within the intent of this subsection whom the administrator by rule or order designates.

5. "Fraud", "deceit" and "defraud" are not limited to common law deceit.

6. "Guaranteed" means guaranteed as to payment of principal, interest or dividends.

7. "Issuer" means any person who issues or proposes to issue any security, except that

a. With respect to certificates of deposit, voting trust certificates, or collateral trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and

b. With respect to certificates of interest or participation in oil, gas or mining titles or leases, or in payments out of production under such titles or leases, there is not considered to be any "issuer".

8. "Nonissuer" means not directly or indirectly for the benefit of the issuer.

9. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, a fiduciary, an unincorporated organization, a government, or a political subdivision of a government.

10. a. "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition or exchange of, a security or interest in a security for value.

b. "Offer" or "offer to sell" includes every attempt or offer to exchange or dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

c. A security given or delivered with, or as a bonus on account of, a purchase of a security or any other thing is offered and sold for value as part of the subject of the purchase.

d. A purported gift of assessable stock is considered to involve an offer and sale.

e. Except to the extent that the administrator provides otherwise by rule or order, an offer or sale of a security that is convertible into or entitles its holder to acquire another security of the same or another issuer is an offer also of the other security, whether the right to convert or acquire is exercisable immediately or in the future.

f. The terms defined in this subsection do not include:

(1) Any bona fide pledge or loan; or

(2) Any stock split, other than a reverse stock split, or security dividend payable with respect to the securities of a corporation in the same or any other class of securities of such corporation, provided nothing of value, including the surrender of a right or an option to receive a cash or property dividend, is given by security holders for the security dividend.

11. "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", "Investment Company Act of 1940", "Internal Revenue Code of 1954" and "Agricultural Marketing Act" mean the federal statutes of those names, as amended before January 1, 1976.

12. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

13. "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

14. "Equity security", for the purposes of subsections 15 and 16 of this section and sections 502.211 to 502.215, means any stock, bond or other obligation the holder of which has the right to vote, or any share of stock or similar security representing an equity interest in the target company, or any security convertible into, or any right, option or warrant to purchase, any such stock, bond, obligation or security.

15. a. "Target company" means a person whose securities are or are to be the subject of an offer to acquire, pursuant to a tender offer or request or invitation for tenders, any equity securities of such person provided that such person is either:

(1) A person which is a Williams Act registrant and is either (i) organized under the laws of the state of Iowa or (ii) has its principal place of business within the state of Iowa; or

(2) A person which (i) is not a Williams Act registrant and (ii) has registered any equity security at any time subsequent to December 31, 1959 under either this Act* or under this chapter as it existed prior to January 1, 1979.

b. For purposes of this subsection, a "Williams Act registrant" means a person which (i) has any equity security which is registered pursuant to section 12 of the Securities Exchange Act of 1934; or (ii) is an insurance company which would have been required to register any equity security pursuant to section 12 of the Securities Exchange Act of 1934 except for the exemption provided in subparagraph (G) of paragraph 2 of subsection "g" of section 12 of the Securities Exchange Act of 1934; or (iii) is a closed-end investment company registered under the Investment Company Act of 1940.

c. For purposes of this subsection, the term "principal place of the business" shall have the same meaning as that term when used in title 28, United States Code, section 1332, subsection "c."

16. "Tender offer" shall not include (i) an offer to purchase equity securities to be effected by a registered broker-dealer on a stock exchange or in the over-the-counter market if the broker performs only the customary broker's function, and receives no more than the customary broker's commission, and neither the principal nor the broker solicits or arranges for the solicitation of orders to sell such equity securities; or (ii) any offer if the acquisition of all equity securities for which the offer is made, together with all other acquisitions by the offeror of securities of the same class during the preceding twelve months, would not exceed two percent of that class; or (iii) offers made by a broker-dealer for its own account in the ordinary course of its business of buying and selling such security.

17. "Interest at the legal rate" means the interest rate for judgments specified in section 535.3.

(83 Acts, ch 169, § 2) HF 514

*67GA, ch 1186

Subsection 4, paragraph d, subparagraph (2) amended

502.202 Exempt securities. The following securities are exempted from sections 502.201 and 502.602:

1. Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; but this exemption shall not include any revenue obligation payable from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise, unless such payments are or will be made or unconditionally guaranteed by a person whose securities are exempt from registration under this chapter by (a) this section, subsection 7 or 8, or (b) subsection 9 of this section, provided the issuer first files with the administrator a written notice specifying the terms of the offer and the administrator does not by order disallow the exemption within fifteen days thereafter.

2. Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

3. Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of this state.

4. Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any savings and loan or similar association organized and supervised under the laws of this state.

5. Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do business in this state.

6. Any security issued or guaranteed by any federal credit union or any credit union or similar association organized and supervised under the laws of this state.

7. Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is

a. Subject to the jurisdiction of the interstate commerce commission;

b. A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; or

c. Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province.

8. Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Coast Stock Exchange, or any other national securities exchange registered under the Securities Exchange Act of 1934 and designated by rule of the administrator; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing.

9. Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes, or as a chamber of commerce or trade or professional association; provided the issuer first files with the administrator a written notice specifying the terms of the offer and the administrator does not by order disallow the exemption within fifteen days thereafter.

10. Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited,

or any guarantee of such paper or of any such renewal; except where such paper is proposed to be sold or offered to the public in units of less than five thousand dollars to any single person.

11. A security issued in connection with an employee stock purchase, option, savings, pension, profit sharing or similar benefit plan, provided, in the case of plans which are not qualified under section 401 of the Internal Revenue Code of 1954 and which provide for contribution by employees, the administrator is notified in writing fifteen days before the inception of the plan of the terms of the plan.

12. A stock or similar security, including a patronage refund certificate, issued by:

a. A cooperative association as defined in the Agricultural Marketing Act, or a federation of such cooperative associations that possesses no greater powers or purposes than cooperative associations so defined, if such stock or similar security including a certificate of interest, certificate of indebtedness, or building note:

(1) Qualifies its holder for membership in the cooperative association or federation, or in the case of patronage refund certificate, is issuable only to members; and

(2) Is transferable only to the issuer or to a successor in interest of the transferor that qualifies for membership in the cooperative association or federation;

b. A cooperative housing corporation described in paragraph 1 of subsection "b" of section 216, of the Internal Revenue Code of 1954, if its activities are limited to the ownership, leasing, management, or construction of residential properties for its members, and activities incidental thereto; or

c. A mutual or cooperative organization, including a cooperative association organized in good faith under and for any of the purposes enumerated in chapters 497, 498, and 499, that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if:

(1) Such stock or similar security is part of a class issuable only to persons who deal in commodities with, or obtain goods or services from, the issuer;

(2) Such stock or similar security is transferable only to the issuer or a successor in interest of the transferor who qualifies for membership in such mutual or cooperative organization; and

(3) No dividends other than patronage refunds are payable to holders of such stock or similar security except on a complete or partial liquidation.

13. Any security issued in exchange for any issued and outstanding security of a cooperative association, as defined in the Agricultural Marketing Act, or a federation of such cooperatives which possess no greater powers or purposes than cooperative associations so defined, if such exchange is a part of a merger or consolidation of two or more such cooperative associations.

14. Any security issued by a corporation formed under chapter 496B.

15. Any security issued by the Iowa family farm development authority under chapter 175.

16. Any security representing a thrift certificate of an industrial loan company which is a member of the industrial loan thrift guaranty corporation of Iowa.

(83 Acts, ch 169, § 3) HF 514

Subsection 11 amended

(83 Acts, ch 95, § 1, 2) HF 592

Subsection 12, paragraph a, unnumbered paragraph 1 amended

NEW subsection 13, and following subsections renumbered

502.203 Exempt transactions. The following transactions are exempted from sections 502.201 and 502.602:

1. Any isolated nonissuer transaction, whether effected through a broker-dealer or not.

2. Any nonissuer distribution of an outstanding security if:

a. A recognized securities manual approved by the administrator contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations;

b. The security was issued by an issuer which has a class of securities currently registered under the Securities Exchange Act of 1934;

c. The security was issued by an issuer which has a class of securities registered under this chapter, or under chapter 502 of the Code as it existed prior to January 1, 1976; or

d. The security was issued by an issuer which is registered under the Investment Company Act of 1940.

3. Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the administrator may by rule require that the customer acknowledge that the sale was unsolicited in accordance with provisions of such rule.

4. Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

5. A sale of bonds or notes directly secured by a real estate mortgage, security interest, deed of trust, or agreement for the sale of real estate or chattels, if the entire mortgage, security interest, deed of trust, or agreement, together with all the bonds or notes secured thereby, is offered and sold as a unit; provided that the entire mortgage, security interest, deed of trust or agreement, together with all of the bonds or notes secured thereby, shall not be deemed to be sold as a unit if:

a. Such bonds or notes are part of a single issue including other bonds or notes secured by interests in real estate or chattels owned or developed by the same person or by persons affiliated with such person; or

b. Such bonds or notes are offered or sold with any right to have substitution by or recourse against, or with guarantee by, the real estate developer or any person other than the person primarily obligated on the bond or note.

6. Any judicial sale or any transaction executed by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, custodian or conservator without any purpose of evading this chapter.

7. Any transaction executed by a bona fide pledgee without any purpose of evading this chapter.

8. An offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity. However, the administrator, by rule or order, may grant this exemption to a person or class of persons based upon the factors of financial sophistication, net worth, and the amount of assets under investment.

9. The sale, as part of a single issue, of securities by the issuer of the securities if all of the following conditions are satisfied:

a. Within any period of twelve consecutive months, sales are made to less than thirty-six purchasers in this state, exclusive of purchases by bona fide institutional investors for their own account for investment.

b. Unless permitted by the administrator by rule, or by order issued upon written application showing good cause for the allowance of the sale, the issue is not an issue of:

(1) Fractional undivided interests in oil, gas, or other mineral leases, rights, or royalties.

(2) Interests in a partnership organized under the laws of or having its principal place of business in a foreign jurisdiction.

c. The issuer reasonably believes that all the buyers in this state are purchasing for investment.

d. Commission or other remuneration is not paid or given, directly or indirectly, for the sale, except as may be permitted by the administrator by rule, or by order issued upon written application showing good cause for allowance of commission or other remuneration.

e. The issuer or a person acting on behalf of the issuer does not offer or sell the securities by any form of general solicitation or advertising.

10. Any offer or sale of a preorganization certificate or subscription if:

a. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber;

b. The number of subscribers does not exceed ten;

c. No payment is made by any subscriber; and

d. No public advertisement of the offer is made.

11. Any transaction pursuant to an offer of its securities by an issuer to its existing security holders in connection with

a. The conversion of convertible securities;

b. The exercise of nontransferable rights or warrants or the exercise of transferable rights or warrants exercisable within not more than ninety days of their issuance;

c. The purchase of securities pursuant to pre-emptive rights; provided that no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state; or

d. The sale, for cash, in connection with a stock dividend, of less than full shares of stock to avoid the issuance of fractional shares, by rounding up the stock dividend payable to any holder to the next higher full share.

12. An offer, but not a sale, of a security for which a registration statement has been filed under this chapter or a written notice has been filed pursuant to section 502.202, subsection 1, 9, or 11 if no stop order or suspension or denial order is in effect and no proceeding is pending under this chapter.

13. Any transaction incident to a vote by security holders of a person or incident to a written consent or resolution of some or all security holders of a person, pursuant to the articles of incorporation of such person, or pursuant to the applicable corporate statute or other statute governing such person, or pursuant to such person's partnership agreement, declaration of trust, or trust indenture, or pursuant to any agreement among security holders of such person, on a reclassification of securities, reverse stock split, reorganization involving the exchange of securities, merger, consolidation, or sale of assets, in consideration, in whole or in part, of the issuance of securities of such person or of any other person, if:

a. A party to such transaction files proxy or informational materials pursuant to subsection "a" of section 14, or subsection "c" of section 14 of the Securities Exchange Act of 1934, or pursuant to section 20 of the Investment Company Act of 1940, provided that such materials are, at least ten days prior to the meeting of security holders called for the purpose of approving such transaction:

(1) Filed with the administrator, and

(2) Distributed to each of the security holders of each party to such transaction;

b. A party to such transaction is excused from registration under section 12 of the Securities Exchange Act of 1934 pursuant to subparagraph (G) of paragraph 2 of subsection "g" of section 12 of that Act, and such party is required by the laws of its domiciliary state to file proxy materials with an agency of said state provided that such proxy materials are, at least ten days prior to the meeting of security holders called for the purpose of approving such transaction:

(1) Filed with the administrator, and

(2) Distributed to each of the security holders of each party to such transaction;

c. One party to a merger owns not less than ninety percent of the outstanding shares of each class of stock of each other party to the merger; or

d. A party to such transaction files with the administrator and distributes to the security holders of each party to the transaction, such materials, within such time limits, as may be specified by rule or order of the administrator.

14. Any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash.

15. The distribution of securities as a dividend, where the corporation distributing the dividend is the issuer of the securities distributed, if the only value given by shareholders for the dividend is the surrender of a right to a cash or property dividend when each shareholder may elect to take the dividend.

- a. In cash or property, or
- b. In such securities.

16. The administrator may create by rule a limited offering transactional exemption which furthers the objectives of compatibility with federal exemptions and uniformity among the states and provides criteria to determine and assure the suitability of investors.

(83 Acts, ch 514, § 4, 7) HF 514
 Subsection 8 amended
 Subsection 9 struck and rewritten
 Subsection 12 amended
 NEW subsection 16

502.209 Denial, suspension and revocation of registration.

1. The administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if the administrator finds that the order is in the public interest and that:

a. The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment filed under either subsection 9 or subsection 11 of section 502.208 as of its effective date, or any financial statement or report required under section 502.208, subsection 9 is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

b. Any provision of this chapter or any rule, order or condition lawfully imposed under this chapter has been willfully violated, in connection with the offering, by:

- (1) The person filing the registration statement;
- (2) The issuer;
- (3) Any partner, officer or director of the issuer, or any person occupying a similar status or performing similar functions;
- (4) Any affiliate of the issuer, but only if the person filing the registration statement is an affiliate of the issuer; or
- (5) Any broker-dealer;

c. The securities registered or sought to be registered are the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state Act applicable to the offering; but the administrator may not institute a proceeding against an effective registration statement under this section more than one year from the date of the order or injunction relied on, and the administrator may not enter an order under this section on the basis of an order or injunction entered under any other state Act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

d. The issuer's enterprise or method of business includes or would include activities which are illegal where performed;

e.* The issuance or sale of the securities has worked or tended to work a fraud upon purchasers or would so operate;

f. The offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options;

g. Advertising has been used in connection with the offering contrary to the provisions of section 502.602;

h.* The financial condition of the issuer affects or would affect the soundness of the securities, except that applications for registration of securities by companies which are in the development stage shall not be denied based solely upon the

financial condition of the company. For purposes of this rule, a "development stage company" is defined as a company which has been in existence for five years or less.

i. The applicant or registrant has failed to pay the proper filing fee; but the administrator may enter only a denial order under this subsection, and shall vacate any such order when the deficiency has been corrected.

2. The administrator may not institute a stop order proceeding against an effective registration statement on the basis of a fact known to the administrator when the registration statement became effective unless the proceeding is instituted within thirty days after effectiveness.

3. The administrator may issue a summary order postponing, suspending or denying the effectiveness of a registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered that the order has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each of the aforementioned persons, may modify or vacate the order or extend it until final determination.

4. No stop order may be entered under any part of this section except the first sentence of subsection 3 without compliance with the Iowa administrative procedure Act.

5. The administrator may vacate or modify a stop order upon a finding that the conditions which promoted its entry have changed or that it is otherwise in the public interest to do so.

6.* a. Subsection 1, paragraphs "e" and "h", shall not apply to the registration of an issue offered by a person whose principal place of business is in this state. However, the provisions of subsection 1, paragraph "e" relating to fraud shall apply to such persons.

b. The administrator may adopt rules to:

(1) Implement paragraph "a" and delineate the format and process to be used.

(2) Provide procedural safeguards, if the administrator finds these safeguards

are necessary.

(83 Acts, ch 169, § 8, 20, 21) HF 514

*Subsection 6 is repealed effective July 1, 1984, and amendments to paragraphs e and h of subsection 1 are effective July 1, 1984; see 1983 Iowa Code for law in effect until that date.

Subsection 1, paragraphs e and h amended

NEW subsection 6

502.301 Registration requirement.

1. It is unlawful for any person to transact business in this state as a broker-dealer or agent unless registered under this chapter.

2. It is unlawful for any broker-dealer or issuer to employ an agent in this state unless the agent is registered. The registration of an agent is not effective during any period when the agent is not associated with a specified broker-dealer registered under this chapter or a specified issuer. Unless permitted by order of the administrator, no agent shall at any time represent more than one broker-dealer or issuer, except that where organizations affiliated by direct or indirect common control are registered as broker-dealers or are issuers of securities registered under this chapter, an agent may represent any such organization. When an agent begins or terminates employment with a broker-dealer or issuer or begins or terminates the activities which makes such person an agent, the agent as well as the broker-dealer or issuer shall promptly notify the administrator.

3. Every registration shall expire on the last day of December in each year.

(83 Acts, ch 169, § 9) HF 514

Subsection 3 amended

502.302 Registration procedures.

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain the information the administrator requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the thirtieth day after an application is filed. The administrator may by rule or order specify an earlier effective date and may by order defer the effective date until noon of the thirtieth day after the filing of an amendment. Registration of a broker-dealer automatically constitutes registration of an agent named in the application or amendments to the application who is a partner, officer or director, or who is a person occupying a similar status or performing similar functions.

2. Every applicant for initial or renewal registration as a broker-dealer shall pay a filing fee of two hundred dollars. Every applicant for initial or renewal registration as an agent shall pay a filing fee of twenty dollars. A filing fee is not refundable.

3. A registered broker-dealer may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

4. The administrator may by rule require a minimum capital for broker-dealers and establish limitations on aggregate indebtedness of broker-dealers in relation to net capital and may classify broker-dealers for purposes of such requirements. The administrator may not, however, with respect to any broker-dealer who is a member of the National Association of Securities Dealers, Inc., or who is registered with the securities and exchange commission, require a higher minimum capital or lower ratio of aggregate indebtedness to net capital than is contained in the rules and regulations adopted by such association or commission.

5. Every broker-dealer and every issuer who employs agents in connection with any security or transaction not exempted either by section 502.202 or section 502.203, shall file and maintain with the administrator a bond conditioned that the broker-dealer or issuer shall properly account for any moneys or securities received from or belonging to another and shall pay, satisfy, and discharge any judgment or decree that may be rendered against such broker-dealer or issuer in a court of competent jurisdiction in a suit or action brought by a purchaser or seller of securities against such broker-dealer or issuer in which it shall be found or adjudged that such securities were sold or purchased by the broker-dealer or issuer in violation of this chapter. Such bond may be drawn to cover the original license and any renewals thereof, and may contain a provision authorizing the surety therein to cancel upon thirty days' notice to the principal and the administrator.

Every such bond shall run in favor of the state of Iowa for the use and benefit of any person who sustains damages as a result of any breach of the conditions thereof, in the sum of fifteen thousand dollars and shall be in such form consistent with the provisions hereof as the administrator may prescribe, and shall be executed with surety or sureties satisfactory to the administrator. In suits against the surety upon such bond it shall not be necessary to join such broker-dealer or issuer as a party.

Banks or trust companies under the supervision of this state or of the United States which would otherwise be required under the provisions of this chapter to file and maintain the bond required herein may execute said bond without surety.

One or more recoveries upon any such bond shall not vitiate the same but it shall

remain in full force and effect, but the aggregate recoveries from the surety upon any such bond shall not exceed the full amount of the penal sum of the bond, and upon suits being commenced in excess of the amount of same the administrator may require additional bond, and if not given within ten days the administrator may revoke the registration of such broker-dealer or issuer.

6. The administrator may by rule or order impose such other conditions in connection with registration under this chapter as are deemed appropriate, in the public interest or for the protection of investors.

(83 Acts, ch 169, § 10, 18) HF 514

The filing fee for renewal registration as a broker-dealer to be effective January 1, 1984, is \$250 and for renewal registration as an agent to be effective January 1, 1984 is \$25; subsequent to January 1, 1984, renewal fees are as provided in subsection 2

Subsection 1 amended

502.303 Post-registration provisions.

1. Every registered broker-dealer shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the administrator by rule prescribes. All records so required shall be preserved for three years unless the administrator by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the administrator, be made available at any time for examination at the administrator's option either in the principal office of the registrant or by production of exact copies thereof in this state.

2. Every registered broker-dealer shall file such financial reports as the administrator by rule prescribes.

3. If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment unless notification of the correction has been given under section 502.301, subsection 2.

4. The administrator shall make periodic examinations, within or without this state, of the business and records of each registered broker-dealer, at the times and in the scope as the administrator determines. The examinations may be made without prior notice to the broker-dealer. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to an examination shall be paid by the broker-dealer whose business is examined, but the expense so payable shall not exceed an amount which the administrator by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the administrator may co-operate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. The administrator shall not make public the information obtained in the course of examinations, except when a duty under this chapter requires the administrator to take action regarding a broker-dealer or to make the information available to one of the agencies specified in this section, or except when the administrator is called as a witness in a criminal or civil proceeding.

(83 Acts, ch 169, § 11) HF 514

Subsection 4 amended

502.304 Denial, revocation, suspension, cancellation and withdrawal of registration.

1. The administrator may by order deny, suspend or revoke a registration or may censure an applicant or registrant or may impose a civil penalty, if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer, a partner, an officer, or a director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer:

a. Has filed an application for registration which as of its effective date, or as of

any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

b. Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act;

c. Has been convicted within the past ten years of

(1) Any misdemeanor involving a security or any aspect of the securities business, or

(2) Any felony;

d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

e. Is the subject of an order of the administrator denying, suspending, or revoking registration as a broker-dealer or agent;

f. Is the subject of an order entered within the past five years by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration as a broker-dealer, agent, or investment adviser, or is the subject of an order of the securities and exchange commission suspending or expelling such person from a national securities exchange or national securities association, registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order; but the administrator

(1) May not institute a revocation or suspension proceeding under this paragraph more than one year from the date of the order relied on, and

(2) May not enter an order under this paragraph on the basis of an order under another state Act unless that order was based on facts which would currently constitute a ground for an order under this section;

g. Has engaged in dishonest or unethical practices in the securities business;

h. Is insolvent, either in the equity or bankruptcy sense; but the administrator may not enter an order against a broker-dealer under this paragraph without a finding of insolvency as to the broker-dealer;

i. Is not qualified on the basis of such factors as training, experience and knowledge of the securities business; or

j. If a broker-dealer, it has failed reasonably to supervise its agents.

2. The administrator may not institute a suspension or revocation proceeding under subsection 1 on the basis of a fact known to him when registration became effective unless the proceeding is instituted within thirty days after the effective date.

3. The administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

4. If the administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, or agent, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after search, the administrator may by order revoke the registration or application.

5. Withdrawal from registration as a broker-dealer or agent becomes effective

thirty days after receipt of an application to withdraw or within such shorter period of time as the administrator may by order determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under subsection 1 paragraph "b" within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

6. No order may be entered under any part of this section except the first sentence of subsection 3 without compliance with the Iowa administrative procedure Act.

7. A civil penalty levied under subsection 1 shall not exceed two hundred fifty dollars per violation per person nor ten thousand dollars in a single proceeding against any one person. All administrative fines received shall be deposited in the state general fund.

(83 Acts, ch 169, § 12, 13) HF 514

Subsection 1, unnumbered paragraph 1 amended
NEW subsection 7

502.404 Prohibited transactions of broker-dealers and agents. A broker-dealer or agent shall not effect a transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this Act or any rule or order hereunder. A broker-dealer or agent shall not recommend to a customer the purchase, sale or exchange of a security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and other relevant information known by the broker-dealer.

(83 Acts, ch 169, § 14) HF 514

Amended

502.601 Administration.

1. This chapter shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provided for in chapter 19A. The deputy administrator shall be the principal operations officer of the securities department and shall be responsible to the administrator for the routine administration of the chapter and the management of the securities department. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the administrator in this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as shall be needed for the administration of the chapter.

2. It is unlawful for the administrator or any officer or employee of the securities department to use for personal benefit any information which is filed with or obtained by the administrator and which is not made public. No provision of this chapter authorizes the administrator or any such officer or employee to disclose any such information except among themselves or to other securities administrators, regulatory authorities or governmental agencies, or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from any privileges which exist at common law or

otherwise when documentary or other evidence is sought under a subpoena directed to the administrator or any officer or employee of the securities department.

(83 Acts, ch 169, § 15) HF 514

Subsection 1 amended

502.603 Investigations and subpoenas.

1. The administrator may

a. Make such public or private investigations within or outside of this state as the administrator deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder;

b. Require or permit any person to file a statement in writing, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning the matter to be investigated; and

c. Keep confidential the information obtained in the course of an investigation. However, if the administrator determines that it is necessary or appropriate in the public interest or for the protection of investors, the administrator may share information with other securities administrators, regulatory authorities, or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter.

2. For the purpose of any investigation or proceeding under this chapter, the administrator or any officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the administrator deems relevant or material to the inquiry, all of which may be enforced in accordance with the Iowa administrative procedure Act.

3. No person is excused from attending and testifying or from producing any document or record before the administrator, or in obedience to the subpoena of the administrator or any officer designated by the administrator, or in any proceeding instituted by the administrator, on the ground that the testimony or evidence required, whether documentary or otherwise, may tend to incriminate such person or subject such person to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which such person is compelled, after claiming the privilege against self-incrimination, to testify or produce evidence, whether documentary or otherwise, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(83 Acts, ch 169, § 16) HF 514

Subsection 1, paragraph c amended

502.608 Administrative files and opinions.

1. A document is filed when it is received by the administrator, except that documents required to be filed under sections 502.202 and 502.203 shall be deemed to be filed with the administrator:

a. On the date received by the administrator.

b. If it has not been received by the administrator prior to the date by which the document must be filed, on the date the document is mailed with the United States postal service by registered or certified mail addressed to the administrator's office in Des Moines, Iowa.

2. The administrator shall keep a register of all applications for registration and registration statements which are or have been effective under this chapter and predecessor laws, and all censure, denial, suspension or revocation orders which have been entered under this chapter and predecessor laws. The register shall be open for public inspection.

3. The information contained in or filed with any registration statement, application or report may be made available to the public under such rules as the administrator prescribes.

4. Upon request and at such reasonable charges as may be prescribed, the administrator shall furnish to any person photostatic or other copies, certified if requested, of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

5. The administrator may honor requests from interested persons for interpretative opinions.

(83 Acts, ch 169, § 17) HF 514

Subsection 1 amended and NEW paragraphs a and b added

CHAPTER 504A

IOWA NONPROFIT CORPORATION ACT

504A.6 Corporate name. The corporate name:

1. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

2. Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, or any limited partnership existing under the laws of this state, or any foreign corporation, whether for profit or not for profit, or any limited partnership authorized to transact business or conduct affairs in this state, or a corporate name or limited partnership name reserved or registered as permitted by the laws of this state.

3. Shall be transliterated into letters of the English alphabet, if it is not in English.

4. A corporation may elect to adopt an assumed name if the name is not the same as or deceptively similar to the name of another domestic corporation existing under the laws of this state or of a foreign corporation authorized to transact business in this state, or the same as or deceptively similar to a name registered or reserved as permitted by the laws of this state.

The election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth the assumed name and paying to the secretary of state a filing fee of ten dollars.

If the assumed name complies with the provisions of this chapter the secretary of state shall issue a certificate authorizing the use of the name. However, the certificate shall not confer a right to the use of the name as against a person having a prior right to the use of the name.

At the time annual license fees are payable under this chapter, a corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five dollars for the assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of five dollars shall be paid at the time of filing of the annual report in the second year following the December in which the assumed name was filed.

If the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of the nonpayment by registered or certified mail; and if the fee together with a penalty of five dollars is not paid within sixty days after the notice is mailed, the right to use the assumed name shall cease.

A separate application and annual fee shall be filed and paid for each assumed name adopted by the corporation.

(83 Acts, ch 144, § 6, 7) SF 435

Subsection 2 amended

NEW subsection 4

504A.67 Corporate name of foreign corporation. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

1. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

2. Shall not be the same as, or deceptively similar to the name of a corporation, whether for profit or not for profit, existing under the laws of this state, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state, or an assumed name which has been adopted by a domestic or a foreign corporation for use in this state in the manner permitted by the laws of this state. However, this provision shall not apply if the foreign corporation applying for a certificate of authority files with the secretary of state one of the following:

a. A resolution of its board of directors adopting an assumed name for use in transacting business in this state and the assumed name is not deceptively similar to the name of a domestic corporation or of a foreign corporation authorized to transact business in this state or to a name reserved or registered as permitted by the laws of this state.

b. The written consent of another corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make the name distinguishable from the other name.

c. A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the foreign corporation to the use of the name in this state.

The corporate name of the foreign corporation is the name under which the corporation shall transact its business in this state unless the corporation also elects to adopt one or more assumed names as provided in this chapter.

A foreign corporation authorized to transact business in this state may elect to adopt an assumed name if the name is not the same as or deceptively similar to the name of a domestic corporation existing under the laws of this state or of another foreign corporation authorized to transact business in this state, or the same as or deceptively similar to a name registered or reserved as permitted by the laws of this state.

The election shall be made by filing with the secretary of state an application executed by an officer of the corporation, setting forth the assumed name and paying to the secretary of state a filing fee of ten dollars.

If the assumed name complies with the provisions of this chapter, the secretary of state shall issue a certificate authorizing the use of the name. However, the certificate shall not confer a right to the use of the name as against a person having a prior right to the use of the name.

At the time annual license fees are payable under this chapter, a foreign corporation which has elected to adopt an assumed name shall pay to the secretary of state an annual fee of five dollars for the assumed name. However, if the assumed name was filed and became effective in December of any year, the first annual fee of five dollars shall be paid at the time of filing of the annual report in the second year following the December in which the assumed name was filed.

If the corporation fails to pay the annual fee when due and payable, the secretary of state shall give notice to the corporation of the nonpayment by registered or certified mail; and if the fee together with a penalty of five dollars is not paid within sixty days after the notice is mailed, the right to use the assumed name shall cease.

A separate application and annual fee shall be filed and paid for each assumed name adopted by a foreign corporation.

3. Shall be transliterated into letters of the English alphabet, if it is not in English.

(83 Acts, ch 144, § 8) SF 435

Subsection 2 struck and rewritten

CHAPTER 505

INSURANCE DEPARTMENT

505.8 General powers and duties. The commissioner of insurance shall be the head of the insurance department, and shall have general control, supervision, and direction over all insurance business transacted in the state, and shall enforce all the laws of the state relating to such insurance.

The commissioner shall, subject to the provisions of chapter 17A, establish, publish and enforce rules not inconsistent with the law for the enforcement of the provisions of this title and for the enforcement of the laws, the administration and supervision of which are imposed on the department and as necessary to obtain from persons authorized to do business in the state or regulated by the department that data required pursuant to section 145.3 by the state health data commission.

He shall supervise all transactions relating to the organization, reorganization, liquidation, and dissolution of domestic insurance corporations, and all transactions leading up to the organization of such corporations.

He shall also supervise the sale in the state of all stock, certificates, or other evidences of interest, either by domestic or foreign insurance companies or organizations proposing to engage in any insurance business.

(83 Acts, ch 27, § 10) HF 196

Unnumbered paragraph 2 amended

CHAPTER 508

LIFE INSURANCE COMPANIES

508.15 Violation by foreign company. *Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, shall forfeit and pay the sum of three hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for distribution under section 602.8107, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.*

(83 Acts, ch 186, § 10105, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

508.15 Violation by foreign company. *Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, shall forfeit and pay the sum of three hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for deposit in the general fund of the state, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.*

(83 Acts, ch 185, § 48, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

CHAPTER 509

GROUP INSURANCE

509.1 Form of policy. No policy of group life, accident or health insurance shall be delivered in this state unless it conforms to one of the following descriptions:

1. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustee shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

a. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. The policy may also provide that the term "employees" shall include the board of directors if the employer is a corporation.

b. The premium for the group life policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy, except accident and health, may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at least ten employees at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

e. Group policies may include dependents of the employee, including the spouse.

f. The policy shall not exclude from coverage an employee or an employee's spouse or dependents on the basis of the eligibility of the employee or the employee's spouse or dependents for medical assistance under chapter 249A.

2. A policy issued to any one of the following to be considered the policyholder:

a. An advisory, supervisory, or governing body or bodies of a regularly organized religious denomination to insure its clergymen, priests, or ministers of the gospel.

b. A teachers' association, to insure its members.

c. A lawyers' association, to insure its members.

d. A volunteer fire company, to insure all of its members.

e. A fraternal society or association, or any subordinate lodge or branch thereof, to insure its members.

f. A common principal of any group of persons similarly engaged between whom there exists a contractual relationship, to insure the members of such group.

g. An association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, to insure the members thereof. For the purpose of this paragraph the students, teachers, administrators or officials of or for any such school or college shall constitute an association.

Provided that the provisions and requirements of subsection 1 of this section shall apply to such policy and the policyholder and insured in like manner as said subsection 1 of this section applies to employers and employees, except that if a policy is issued to a volunteer fire company or an association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, the requirement for twenty-five members shall not apply, and, if issued to a teachers' association or lawyers' association, not less than sixty-five percent of the members thereof may be insured.

3. A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise.

b. The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five percent of the new entrants become insured.

d. The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him to the creditor, or the face amount of any loan or loan commitment, totally or partially executed, creating personal liability and made in good faith for general agricultural or horticultural purposes to a debtor with seasonal income; however, it shall not exceed thirty-five thousand dollars.

e. The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment. Provided that in the case of a debtor for agricultural or horticultural purposes of the type described in paragraph "d", the insurance in excess of indebtedness to the creditor, if any, shall be payable to a named beneficiary, to the estate of the debtor or under the provision of a facility of payment clause.

4. A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives, or agents, subject to the following requirements:

a. The members eligible for insurance under the policy shall be all of the members of the union or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

b. The premium for the group life policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy,

except accident and health, may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least sixty-five percent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy must cover at least ten members at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

e. Policies may include dependents of the insured, including the spouse.

f. The policy shall not exclude from coverage a member or a member's spouse or dependents on the basis of the eligibility of the member or the member's spouse or dependents for medical assistance under chapter 249A.

5. A policy issued to the trustees of a fund established by two or more employers in the same industry or by two or more labor unions or by one or more employers and by one or more labor unions which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

a. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or both. The policy may provide that the term "employees" shall include the individual proprietor or partners if an employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. The policy may provide that the term "employees" shall include retired employees. The policy may also provide that the term "employees" shall include the board of directors if the employer is a corporation.

b. The premium for the policy shall be paid by the trustees wholly from funds established by the employers of the insured persons. The policy must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, if the funds are contributed wholly by the employer or unions.

c. The policy must cover at least one hundred persons at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

e. Policies may include dependents of the insured, including the spouse.

f. The policy shall not exclude from coverage an employee or member or an employee's or member's spouse or dependents on the basis of the eligibility of the employee or member or employee's or member's spouse or dependents for medical assistance under chapter 249A.

6. A policy issued to any nonprofit industrial association (to be deemed the policyholder) incorporated for a period of at least ten years and organized for purposes other than obtaining insurance, subject to the following requirements:

a. If two or more members of the association, or any class or classes of members thereof determined by conditions pertaining to insurance, elect to insure their employees or any class or classes of employees determined by conditions pertaining to employment; and

b. The total number of insured employees must not be less than one thousand.

and of these not less than seventy-five percent must be employees of members with at least twenty insured employees each, and further, not more than ten percent may be employees of members with less than ten insured employees each; and

c. The insurance premiums are paid by such members to the association; each member, insofar as applicable to his own employees, may collect part of the premium from insured employees, and the method of apportionment of the premium payment between himself and his employees may be varied as among individual members; and

d. Not less than seventy-five percent of the eligible employees of each participating member may be insured where the employees pay a part of the premium. The word "employees" as used in this subsection shall also include the individual members and employees of such association.

e. Policies may include dependents of the employees, including the spouse.

f. The policy shall not exclude from coverage an employee or an employee's spouse or dependents on the basis of the eligibility of the employee or the employee's spouse or dependents for medical assistance under chapter 249A. This paragraph shall also apply to corporations operating within the state who provide insurance coverage for their employees directly, and the commissioner shall have the authority to enforce the provisions of this paragraph.

7. A policy issued to the department of human services, which shall be deemed the policyholder, to insure eligible persons for medical assistance, or for both medical assistance and additional medical assistance, as defined by chapter 249A as hereafter amended.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 7 amended

509.3 Provisions as part of accident or health policy. All policies of group accident or health insurance or combination thereof issued in this state shall contain in substance the following provisions:

1. The policy shall have a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person.

2. A provision that the company will issue to the policyholder for delivery to each person insured under such policy an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and such provisions of the policy as are, in the opinion of the commissioner of insurance, necessary to inform the holder thereof as to his rights under the policy.

3. A provision that to the group or class thereof originally insured shall be added, from time to time, all new persons eligible to insurance in such group or class.

4. A provision that if the insurance on a person or insurance on a person and the person's dependents covered by the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policies, such person, if enrolled under the group policy for ninety days, shall be entitled to have issued to him by the insurer without evidence of insurability an individual or family policy of hospital and medical expense insurance provided application for the individual or family policy is made and the first premium paid to the insurer, within thirty-one days after termination, and provided further that,

a. The individual or family policy shall provide insurance protection substantially similar both in type and level of coverage to that which ceases because of such termination, but the coverage shall not exceed that provided under the group policy.

b. The individual or family policy may, at the option of such person, be on any one of the forms then customarily issued by the insurer at the age and for the benefits applied for.

c. The premium on the individual or family policy shall be at the insurer's customary rate applicable to that policy for a standard class of risk at the insured's attained age on the effective date of the policy.

d. Such employee is not then covered by another policy of hospital or surgical expense insurance providing similar benefits or is not covered by or eligible to be covered by a group contract or policy providing similar benefits or is not provided with similar benefits required by any statute or provided by any welfare plan or program, which together with the converted policy would result in overinsurance or duplication of benefits.

e. The individual or family converted policy may include a provision whereby the insurer may request information at any premium due date of the policy of any person covered thereunder as to whether he is then covered by another policy of hospital or surgical expense insurance or hospital service or medical expense indemnity corporation subscriber contract providing similar benefits or is then covered by a group contract or policy providing similar benefits or is then provided with similar benefits required by any statute or provided by any welfare plan or program. If any such person is so covered or so provided and fails to furnish the details of such coverage when requested, the benefits payable under the converted policy may be based on the hospital, surgical or medical expenses actually incurred after excluding expenses to the extent they are payable under such other coverage or provided under such statute, plan or program.

f. The conversion provision shall also be available (1) upon the death of the employee or member, as the case may be, to the surviving spouse with respect to such of the spouse and children as are then covered by the group policy, and shall be available to a child solely with respect to himself upon his attaining the limiting age of coverage under the group policy while covered as a dependent thereunder, and (2) upon the divorce or annulment of the marriage of the employee or member, as the case may be, to the divorced spouse, or former spouse in the event of annulment, of such employee or member.

g. The effective date of the individual or family policy shall be the date on which coverage under the group policy ceases.

5. A provision shall be made available to policyholders, under group policies covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154 if the care and treatment are provided within the scope of the optometrist's license and if the policy would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 or 150A. The policy shall provide that the policyholder may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148, 150A, or 154. This subsection applies to group policies delivered or issued for delivery after July 1, 1983, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This subsection does not apply to blanket, short-term travel, accident only, limited or specified disease, or individual or group conversion policies, or policies designed only for issuance to persons for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

(83 Acts, ch 166, § 1) SF 178

NEW subsection 5

CHAPTER 511

PROVISIONS APPLYING TO LIFE INSURANCE COMPANIES AND ASSOCIATIONS

511.7 Recovery of penalties. *Actions brought to recover any of the penalties provided for in this chapter shall be instituted in the name of the state by the county attorney of the county, under the direction and authority of the commissioner of insurance, and may be brought in the district court of any county in which the company or association proceeded against is engaged in the transaction of business, or in which the offending person resides, if it is against the person. The penalties, when recovered, shall be paid to the treasurer of state for distribution under section 602.8107.*

(83 Acts, ch 186, § 10106, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

511.7 Recovery of penalties. Actions brought to recover any of the penalties provided for in this chapter shall be instituted in the name of the state by the county attorney of the county, under the direction and authority of the commissioner of insurance, and may be brought in the district court of any county in which the company or association proceeded against is engaged in the transaction of business, or in which the offending person resides, if it is against the person. The penalties, when recovered, shall be paid to the treasurer of state for deposit in the general fund of the state.

(83 Acts, ch 185, § 49, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

511.26 Fee statute — applicability. The provisions of the chapter on insurance other than life apply as to fees under this chapter and chapters 508 and 510, except as modified by section 511.24.

(83 Acts, ch 101, § 107) SF 136

Amended

CHAPTER 514

NONPROFIT HEALTH SERVICE CORPORATIONS

(chapter title changed)

514.1 Insurance laws excluded generally. Any corporation hereafter organized under the provisions of chapter 504 or chapter 504A for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan, whereby hospital service may be provided by the corporation or by a hospital with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to hospital service, or any corporation organized for the purpose of establishing, maintaining, and operating a plan whereby medical and surgical service may be provided at the expense of this corporation, by duly licensed physicians and surgeons, dentists, podiatrists, osteopathic physicians, or osteopathic physicians and surgeons, to subscribers under contract, entitling each subscriber to medical and surgical service, as provided in the contract or any corporation organized for the purpose of establishing, maintaining, and operating a nonprofit pharmaceutical service plan or optometric service plan, whereby pharmaceutical or optometric service may be provided by this corporation or by a licensed pharmacy with which it has a contract for service, to the public who become

subscribers to this plan under a contract which entitles each subscriber to pharmaceutical or optometric service, shall be governed by the provisions of this chapter and shall be exempt from all other provisions of the insurance laws of this state, unless specifically designated herein, not only in governmental relations with the state but for every other purpose, and additions hereafter enacted shall not apply to these corporations unless they be expressly designated therein. For the purposes of this chapter, "subscriber" means an individual who enters into a contract for hospital services, medical or surgical services, dental services, or pharmaceutical or optometric services with a corporation subject to this chapter and includes any person eligible for medical assistance or additional medical assistance as defined under chapter 249A, with respect to whom the department of human services has entered into a contract with any firm operating under chapter 514. For purposes of this chapter, "provider" is as defined in section 514B.1.

(83 Acts, ch 27, § 11) HF 196

Amended

(83 Acts, ch 96, § 157, 159) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Amended

514.4 Directors. At least two-thirds of the directors of a hospital service corporation, medical service corporation, dental service corporation, or pharmaceutical or optometric service corporation subject to this chapter shall be at all times subscribers and not more than one-third of the directors shall be providers as provided in this section. The board of directors of each corporation shall consist of at least nine members.

A subscriber director is a director of the board of a corporation who is a subscriber and who is not a provider of health care pursuant to section 514B.1, subsection 5, a person who has material financial or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or a spouse or a member of the immediate family of such a person. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

A provider director of a corporation subject to this chapter shall be at all times a person who has a material financial interest in or is a fiduciary to or an employee of or is a spouse or member of the immediate family of a provider having a contract with such corporation to render to its subscribers the services of such corporation or who is a hospital trustee.

A director may serve on a board of only one corporation at a time subject to this chapter.

The commissioner of insurance shall adopt rules pursuant to chapter 17A to implement the process of the election of subscriber directors of the board of directors of a corporation to ensure the representation of a broad spectrum of subscriber interest on each board. The rules shall provide for an independent subscriber nominating committee to serve until the composition of the board of directors meets the percentage requirements of this section. Once the composition requirements of this section are met, the nominations for subscriber directors shall be made by the subscriber directors of the board. A member of the board of directors of a corporation subject to this chapter shall not serve on the independent subscriber nominating committee. The nominating committee shall consist of subscribers as defined in this section and procedures to permit nomination by a petition of at least fifty subscribers or providers.

Population factors, representation of different geographic regions, and the demography of the service area of the corporation subject to this chapter shall be considered when making nominations for the board of directors of a corporation subject to this chapter.

A corporation shall not reimburse or compensate a provider director or a subscrib-

er director more than forty dollars per diem plus necessary and actual expenses for attendance at a meeting of the board of directors.

A corporation serving states in addition to Iowa shall be required to implement this section only for directors who are residents of Iowa and elected as board members from Iowa.

(83 Acts, ch 27, § 12, 15) HF 196

Effective August 1, 1983. Transition provisions for corporations in existence on that date; see 83 Acts, ch 27, § 15 (HF 196)

Struck and rewritten

514.5 Contracts for service. A hospital service corporation organized under chapter 504 or 504A may enter into contracts for the rendering of hospital service to any of its subscribers with hospitals maintained and operated by the state or any of its political subdivisions, or by any corporation, association, or individual. Such hospital service corporation may also contract with an ambulatory surgical facility to provide surgical services to the corporation's subscribers. Hospital service is meant to include bed and board, general nursing care, use of the operating room, use of the delivery room, ordinary medications and dressings and other customary routine care. Ambulatory surgical facility means a facility constructed and operated for the specific purpose of providing surgery to patients admitted to and discharged from the facility within the same day.

Any medical service corporation organized under the provisions of this chapter may enter into contracts with subscribers to furnish medical and surgical service through physicians and surgeons, dentists, podiatrists, osteopathic physicians, or osteopathic physicians and surgeons.

Any pharmaceutical or optometric service corporation organized under the provisions of said chapter may enter into contracts for the rendering of pharmaceutical or optometric service to any of its subscribers. Membership in any pharmaceutical service corporation shall be open to all pharmacies licensed under chapter 155.

(83 Acts, ch 27, § 13) HF 196

Unnumbered paragraph 1 amended

514.7 Contracts — approval by commissioner. The contracts by any such corporation with the subscribers for hospital service or for medical and surgical service or for pharmaceutical or optometric service shall at all times be subject to the approval of the commissioner of insurance. The commissioner shall require that participating pharmacies be reimbursed by the pharmaceutical service corporation at rates or prices equal to the rates or prices charged nonsubscribers, unless the commissioner determines otherwise to prevent loss to subscribers.

A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if the care and treatment are provided within the scope of the optometrist's license and if the subscriber contract would pay for the care and treatment if it were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 or 150A. The subscriber contract shall also provide that the subscriber may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148, 150A, or 154. This paragraph applies to group subscriber contracts delivered after July 1, 1983, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to contracts designed only for issuance to subscribers eligible for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

(83 Acts, ch 166, § 2) SF 178

NEW unnumbered paragraph 2

514.19 Combined service corporations. A corporation subject to this chapter may combine with any other corporation subject to this chapter as permitted under chapter 504A and upon the approval by the commissioner of insurance. Each corporation shall comply with chapter 504A, the corporation's articles of incorporation, and the corporation's bylaws. The combined service corporation shall continue the service benefits previously provided by each corporation and may, subject to the approval of the commissioner of insurance, offer other service benefits not previously provided by the corporations before combining, which are permitted under chapter 514.

(83 Acts, ch 27, § 14) HF 196
NEW section

CHAPTER 514B

HEALTH MAINTENANCE ORGANIZATIONS

514B.1 Definitions. As provided in this chapter, unless the context otherwise requires:

1. "*Commissioner*" means the commissioner of insurance.

2. "*Health care services*" means services included in the furnishing to any individual of medical or dental care, or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of all other services for the purposes of preventing, alleviating, curing, or healing human illness, injury, or physical disability.

The health care services available to enrollees under prepaid group plans covering vision care services or procedures, shall include a provision for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if performed within the scope of the optometrist's license, and the plan would pay for the care and treatment when the care and treatment were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 or 150A. The plan shall provide that the plan enrollees may reject the coverage for services which may be provided by an optometrist if the coverage is rejected for all providers of similar vision care services as licensed under chapter 148, 150A, or 154. This paragraph applies to services provided under plans made after July 1, 1983, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Title XVIII of the Social Security Act or any other similar coverage under a state or federal government plan.

3. "*Health maintenance organization*" means any person, who:

a. Provides either directly or through arrangements with others, health care services to enrollees on a fixed prepayment basis;

b. Provides either directly or through arrangements with other persons for basic health care services; and,

c. Is responsible for the availability, accessibility and quality of the health care services provided or arranged.

4. "*Enrollee*" means an individual who is enrolled in a health maintenance organization.

5. "*Provider*" means any physician, hospital, or person as defined in chapter 4 which is licensed or otherwise authorized in this state to furnish health care services.

6. "*Basic health care services*" means services which an enrollee might reasonably require in order to be maintained in good health, including as a minimum, emergency care, inpatient hospital and physician care, and outpatient medical services rendered within or outside of a hospital.

7. "*Evidence of coverage*" means any certificate, agreement or contract issued to an enrollee setting out the coverage to which he is entitled.

(83 Acts, ch 166, § 3) SF 178

Subsection 2 amended by adding NEW unnumbered paragraph 2

514B.32 Construction.

1. Except as otherwise provided in this chapter, laws regulating the insurance business in this state and the operations of corporations authorized under chapter 514 shall not be applicable to any health maintenance organization granted a certificate of authority under this chapter with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives does not violate any provision of law prohibiting solicitation or advertising by health professionals. Upon a prospective enrollee's request, a list of locations of services and a list of providers who have current agreements with the health maintenance organization shall be made available.

3. Any health maintenance organization authorized under this chapter is not practicing medicine and shall not be subject to the limitations provided in section 135B.26 on types of contracts entered into between doctors and hospitals.

(83 Acts, ch 28, § 1) HF 577

Subsection 2 amended

CHAPTER 515**INSURANCE OTHER THAN LIFE**

515.93 Violations. *A violation of sections 515.91 and 515.92 shall for the first offense subject the company, association, or individual guilty thereof to a penalty of five hundred dollars, to be recovered in the name of the state, with costs, in an action instituted by the county attorney, either in the county in which the company, association, or individual is located or transacts business, or in the county where the offense is committed, and the penalty, when recovered, shall be paid to the treasurer of state for distribution under section 602.8107. Every subsequent violation of the sections subjects the company, association, or individual to a penalty of one thousand dollars, to be sued for, recovered, and disposed of in like manner.*

(83 Acts, ch 186, § 10107, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

515.93 Violations. A violation of sections 515.91 and 515.92 shall for the first offense subject the company, association, or individual guilty thereof to a penalty of five hundred dollars, to be recovered in the name of the state, with costs, in an action instituted by the county attorney, either in the county in which the company, association, or individual is located or transacts business, or in the county where the offense is committed, and the penalty, when recovered, shall be paid to the treasurer of state for deposit in the general fund of the state. Every subsequent violation of the sections subjects the company, association, or individual to a penalty of one thousand dollars, to be sued for, recovered, and disposed of in like manner.

(83 Acts, ch 185, § 50, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement

Amended

CHAPTER 516A

PROTECTION AGAINST UNINSURED OR HIT-AND-RUN MOTORISTS

516A.1 Coverage included in every liability policy — rejection by insured. No automobile liability or motor vehicle liability insurance policy insuring against liability for bodily injury or death arising out of the ownership, maintenance, or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, unless coverage is provided in such policy or supplemental thereto, for the protection of persons insured under such policy who are legally entitled to recover damages from the owner or operator of an uninsured motor vehicle or a hit-and-run motor vehicle or an underinsured motor vehicle because of bodily injury, sickness, or disease, including death resulting therefrom, caused by accident and arising out of the ownership, maintenance, or use of such uninsured or underinsured motor vehicle, or arising out of physical contact of such hit-and-run motor vehicle with the person insured or with a motor vehicle which the person insured is occupying at the time of the accident. Both the uninsured motor vehicle or hit-and-run motor vehicle coverage, and the underinsured motor vehicle coverage shall include limits for bodily injury or death at least equal to those stated in section 321A.1, subsection 10. The form and provisions of such coverage shall be examined and approved by the commissioner of insurance.

However, the named insured may reject all of such coverage, or reject the uninsured motor vehicle or hit-and-run motor vehicle coverage, or reject the underinsured motor vehicle coverage, by written rejections signed by the named insured. If rejection is made on a form or document furnished by an insurance company or insurance agent, it shall be on a separate sheet of paper which contains only the rejection and information directly related to it. Such coverage need not be provided in or supplemental to a renewal policy if the named insured has rejected the coverage in connection with a policy previously issued to the named insured by the same insurer.

(83 Acts, ch 101, § 108) SF 136
Unnumbered paragraph 2 amended

CHAPTER 517

EMPLOYERS LIABILITY INSURANCE

517.6 Issuance of employers' liability coverage. An insurer intending to issue a policy providing employers' liability insurance only and covering a corporate officer excluded from workers' compensation coverage by the signing of a written rejection of workers' compensation coverage under section 87.22, shall file the policy with and obtain the approval of the commissioner of insurance. The filing shall include the premium rates which will apply to the employers' liability coverage.

(83 Acts, ch 36, § 6, 8) SF 51
Effective January 1, 1984
NEW section

CHAPTER 523C

RESIDENTIAL SERVICE CONTRACTS

NEW chapter

523C.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Residential service contract*" means a contract or agreement between a residential customer and a service company which undertakes, for a predetermined fee and for a specified period of time, to maintain, repair, or replace all or any part of the structural components, appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems of residential property containing not more than four dwelling units.

2. "*Service company*" means a person who issues and performs, or arranges to perform, services pursuant to a residential service contract.

3. "*Licensed service company*" means a service company which is licensed by the commissioner pursuant to this chapter.

4. "*Commissioner*" means the commissioner of insurance.

(83 Acts, ch 87, § 2) HF 448

NEW section

523C.2 License required. A person shall not issue a residential service contract or undertake or arrange to perform services pursuant to a residential service contract unless the person is a corporation and is a licensed service company.

(83 Acts, ch 87, § 3) HF 448

NEW section

523C.3 Application for license.

1. Application for a license as a service company shall be made to and filed with the commissioner on forms approved by the commissioner and shall include all of the following information:

- a. The name and principal address of the applicant.
- b. The state of incorporation of the applicant.
- c. The name and address of the applicant's registered agent for service of process within Iowa.

2. The application shall be accompanied by all of the following:

a. A certificate of good standing for the applicant issued by the secretary of state and dated not more than thirty days prior to the date of the application.

b. A surety bond as provided in section 523C.5.

c. A copy of the most recent financial statement, including balance sheets and related statements of income, of the applicant, prepared in accordance with generally accepted accounting principles, audited by a certified public accountant and dated not more than twelve months prior to the date of the application.

d. An affidavit of an authorized officer of the service company stating the number of contracts issued by the service company in the preceding calendar year, and stating that the net worth of the service company satisfies the requirements of section 523C.6.

e. A license fee in the amount of two hundred fifty dollars.

3. If the application contains the required information and is accompanied by the items set forth in subsection 2, and if the net worth requirements of section 523C.6 are satisfied, as evidenced by the audited financial statements, the commissioner shall issue the license. If the form of application is not properly completed or if the required accompanying documents are not furnished or in proper form, the commissioner shall not issue the license and shall give the applicant written notice of the grounds for not issuing the license. A notice of license denial shall be accompanied by a refund of fifty percent of the fee submitted with the application.

(83 Acts, ch 87, § 4) HF 448

NEW section

523C.4 License expiration and renewal. Each license issued under this chapter shall expire on June 30 next following the date of issuance. If the service company maintains in force the surety bond described in section 523C.5 and if its license is not subject to or under suspension or revocation under section 523C.9, its license shall be renewed by the commissioner upon receipt by the commissioner on or before the expiration date of a renewal application accompanied by the items required by section 523C.3, subsection 2, paragraphs "b", "c", "d", and "e", and section 523C.15. If the commissioner denies renewal of the license, the denial shall be in writing setting forth the grounds for denial and shall be accompanied by a refund of fifty percent of the license renewal fee.

(83 Acts, ch 87, § 5) HF 448

NEW section

523C.5 Required bond. To assure the faithful performance of obligations under residential service contracts issued and outstanding in this state, a service company shall, prior to the issuance or renewal of a license, file with the commissioner a surety bond in the amount of one hundred thousand dollars, which has been issued by an authorized surety company and approved by the commissioner as to issuer, form, and contents. The bond shall not be canceled or be subject to cancellation unless thirty days' advance notice in writing is filed with the commissioner. Notwithstanding the provisions of chapter 17A, if a bond is canceled for any reason and a new bond in the required amount is not received by the commissioner on or before the effective date of cancellation, the license of the service company is automatically revoked as of the date the bond ceases to be in effect. A service company whose license is revoked under this section may file an application for a new license pursuant to section 523C.3.

The bond posted by a service company pursuant to this section shall be for the benefit of, and subject to recovery thereon by any residential service contract holder sustaining actionable injury due to the failure of the service company to faithfully perform its obligations under a residential service contract because of insolvency of the service company.

If a service company ceases to do business in this state and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond shall be released.

(83 Acts, ch 87, § 6) HF 448

NEW section

523C.6 Net worth requirement. A service company that has issued or renewed in the aggregate one thousand or less residential service contracts during the preceding calendar year shall maintain a minimum net worth of forty thousand dollars, and the minimum net worth to be maintained shall be increased by an additional twenty thousand dollars for each additional five hundred contracts or fraction thereof issued or renewed, up to a maximum required net worth of four hundred thousand dollars.

For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves, computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.

(83 Acts, ch 87, § 7) HF 448

NEW section

523C.7 Filing of forms of contract.

1. A residential service contract shall not be issued or used in this state unless it has been filed with and approved by the commissioner. If the commissioner fails to inform the service company of objections to the form of the residential service contract within thirty days after filing, the residential contract shall be deemed to have been approved by the commissioner provided it otherwise complies with this section.

2. Residential service contracts shall:

a. Be written in nontechnical, readily understood language, using words with common and everyday meanings.

b. Clearly, conspicuously, and plainly specify all of the following:

(1) The services to be performed by the service company, and the terms and conditions of performance.

(2) The fee, if any, to be charged for a service call.

(3) Each of the systems, appliances, and components covered by the contract.

(4) Any exclusions and limitations respecting the extent of coverage.

(5) The period during which the contract will remain in effect.

(6) All limitations respecting the performance of services, including any restrictions as to the time periods when services may be requested or will be performed.

(7) The following statement: "The issuer of this contract is subject to regulation by the insurance department of the state of Iowa. Complaints which are not settled by the issuer may be sent to the Iowa insurance department."

c. Provide for the performance of services only. A residential service contract shall not provide for a payment to, or reimbursement or indemnification of the holder of the contract.

d. Provide for the performance of services upon a request by telephone to the service company without a requirement that claim forms or applications be filed prior to the rendition of services.

e. Provide for the initiation of services by or under the direction of the service company within forty-eight hours of the request for the services by the holder of the contract.

3. Any application for a residential service contract shall notify the purchaser that the person submitting the application to the service company for the purchaser is acting as the representative of the service company and not of the purchaser in that transaction.

(83 Acts, ch 87, § 8) HF 448

NEW section

523C.8 Rebates and commissions. A service company shall not pay a person who is acting as the agent, representative, attorney, or employee of the owner or prospective owner of residential property, a commission or any other consideration, either directly or indirectly, as an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract. As used in this section, the phrase "commission or any other consideration" does not include bona fide payments or reimbursements for any of the following:

1. Goods or facilities actually furnished or services actually performed, if the payments or reimbursements are reasonably related to the value of the goods, facilities, or services furnished.

2. Inspection fees, if an inspection of the property to be the subject of a residential service contract is required by a service company and if the inspection fee is reasonably related to the services performed.

3. Advertising, marketing, and educational expenses actually incurred in the sale of the service company's service contracts which are applicable on a similar and essentially equal basis to all its customers and the agents of its customers.

4. Reasonable expenses for food, beverage, and similar items if furnished within the context of a service company's customary business, educational, or promotional practices.

(83 Acts, ch 87, § 9) HF 448

NEW section

523C.9 Suspension or revocation of license.

1. In addition to the license revocation provisions of section 523C.5, the commissioner may suspend or revoke or refuse to renew the license of a service company for any of the following grounds:

- a. The service company violated a lawful order of the commission or any provision of this chapter.
- b. The service company failed to pay any final judgment rendered against it in this state within sixty days after the judgment became final.
- c. The service company has without just cause refused to perform or negligently or incompetently performed services required to be performed under its residential service contracts and the refusal, or negligent or incompetent performance has occurred with such frequency, as the commissioner determines, as to indicate the general business practices of the service company.
- d. The service company violated section 523C.13.
- e. The service company failed to maintain the net worth required by section 523C.6.
- f. The service company failed to maintain the reserve account required by section 523C.11.
- g. The service company failed to maintain its corporate certificate of good standing with the secretary of state.

2. If the license of a service company is terminated under section 523C.5 because of failure to maintain bond, the commissioner shall give written notice of termination to the service company. The notice shall include the effective date of the termination.

(83 Acts, ch 87, § 10) HF 448

NEW section

523C.10 Rules. The commissioner may adopt rules under chapter 17A to implement this chapter.

(83 Acts, ch 87, § 11) HF 448

NEW section

523C.11 Reserve account.

1. A service company shall maintain in an independent depository a reserve account containing cash or marketable securities in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued in this state, if any, and for actual expenditures for services rendered under those contracts.

2. The depository shall make its records concerning the service company reserve accounts available to the commissioner or a designee for inspection on the premises of the depository.

3. The service company shall submit with each license renewal application an affidavit by an authorized officer of the depository attesting to the balance in the reserve account and that the reserve account is being maintained in accordance with this chapter.

(83 Acts, ch 87, § 12) HF 448

NEW section

523C.12 Optional examination. The commissioner or a designee of the commissioner may make an examination of the books and records of a service company and verify its assets, liabilities, and reserves. The actual costs of the examination shall be borne by the service company.

(83 Acts, ch 87, § 13) HF 448

NEW section

523C.13 Deceptive acts or practices — penalty. The commissioner shall adopt rules which regulate residential service contracts to prohibit misrepresentation, false advertising, defamation, boycotts, coercion, intimidation, false statements and entries and unfair discrimination or practices. If the commissioner finds that a person has violated the rules adopted under this section, the commissioner shall issue an order to that person to cease and desist and may order any or all of the following:

1. Payment of a civil penalty of not more than one thousand dollars for each and

every act or violation, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this section, in which case the penalty shall be not more than five thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. The commissioner shall, if it finds the violations of this section were directed, encouraged, condoned, ignored, or ratified by the employer of such person, assess such fine to the employer and not such person.

2. Suspension or revocation of the license of a person, if the person knew or reasonably should have known the person was in violation of this section.

(83 Acts, ch 87, § 14) HF 448

NEW section

523C.14 Rate review. Using the information obtained in the annual reports and any additional information requested by the commissioner, the commissioner shall evaluate the fees charged for the residential service contract to determine if they are reasonable in relation to the value of the claims made. The commissioner may order an adjustment of the fees if the commissioner determines that the fees are not reasonable in relation to the value of the claims made.

(83 Acts, ch 87, § 15) HF 448

NEW section

523C.15 Annual report. A licensed service company shall file with the commissioner an annual report within ninety days of the close of its fiscal year. The annual report shall be in a form prescribed by the commissioner and contain all of the following:

1. A current financial statement including a balance sheet and statement of operations prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant.

2. The number of residential service contracts issued during the preceding fiscal year, the number canceled or expired during the year, the number in effect at year end and the amount of residential service contract fees received.

3. Any other information relating to the performance and solvency of the residential service company required by the commissioner.

(83 Acts, ch 87, § 16) HF 448

NEW section

523C.16 Exclusions. This chapter does not apply to any of the following:

1. A performance guarantee given by a builder of a residence or the manufacturer or seller or lessor of residential property if no identifiable charge is made for the guarantee.

2. A service contract, guarantee or warranty between a residential customer and a service company which will perform the work itself and not through subcontractors for the service, repair or replacement of appliances or electrical, plumbing, heating, cooling or air-conditioning systems.

3. A contract between a service company and a person who actually performs the maintenance, repairs, or replacements of structural components, or appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems, if someone other than the service company actually performs these functions.

4. A service contract, guarantee or warranty issued by a retail merchant to a retail customer, guaranteeing or warranting the repair, service or replacement of appliances or electrical, plumbing, heating, cooling or air-conditioning systems sold by said retail merchant.

(83 Acts, ch 87, § 17) HF 448

NEW section

523C.17 Lending institution. A bank, savings and loan association, insurance company or other lending institution shall not require the purchase of a residential service contract as a condition of a loan. A lending institution shall not sell a residential service contract to a borrower unless the borrower signs an affidavit acknowledging that the purchase is not required. Violation of this section is punishable as provided in section 523C.13.

(83 Acts, ch 87, § 18) HF 448

NEW section

CHAPTER 524

IOWA BANKING LAW

524.706 Officer dealing with state bank.

1. a. An executive officer of a state bank may receive loans or extensions of credit from a state bank of which the person is an executive officer, resulting in obligations as defined in section 524.904, subsection 1, not exceeding, in the aggregate:

(1) An amount secured by a lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used as the officer's residence, provided that after the loan is made there is no other loan by the bank to the executive officer, under authority of this subparagraph, outstanding.

(2) An amount not exceeding an aggregate of twenty thousand dollars outstanding at any one time, to finance the education of a child or children of the executive officer.

(3) Any other loans or extensions of credit which in the aggregate do not at any one time exceed ten thousand dollars.

(4) Other amounts which do not, in the aggregate, exceed the principal amounts of time certificates of deposit in the bank which are held in the name of the executive officer, if repayment of the loan or credit amounts is at all times secured by pledge of the certificates. An interest in or portion of a time certificate of deposit does not satisfy the requirements of this subparagraph if that interest or portion is also pledged to secure the payment of a debt or obligation of any person other than the executive officer.

b. A state bank shall not loan money or extend credit to an executive officer of such state bank, nor shall an executive officer of a state bank receive a loan or extension of credit from such state bank, exceeding the limitations imposed by this section or for a purpose other than that authorized by this section. Such loans or extensions of credit shall not exceed an amount totaling more than twenty percent of the capital and surplus of the state bank and any such loan on real property shall comply with section 524.905. A majority of the board of directors, voting in the absence of the applying officer, whether or not he is also a director, shall give its prior approval to any obligation of an executive officer to the state bank of which he is an executive officer. The form of approval shall be specified by the superintendent, and a copy recorded in the minutes of the board of directors.

c. For the purposes of this subsection "executive officer" means an officer of a state bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policymaking functions of the bank, regardless of whether the officer has an official title or whether the officer's title contains a designation of assistant and regardless of whether the officer is serving without salary or other compensation. The chairperson of the board, the president, every vice president, the cashier, secretary, and treasurer of a state bank are assumed to be executive officers, unless, by resolution of the board of directors or by the bank's bylaws, but subject to contrary notice by the superintendent as provided for in section 524.701, any such officer is excluded from participation in major policymaking functions, otherwise than in the capacity of a director of the bank, and the officer does not actually participate.

2. The provisions of section 524.612, subsections 2, 3 and 4, shall apply to officers.
 3. If an individual is a director and an officer, he shall be subject to the limitations of subsection 1 of this section.
 4. Whenever an officer of a state bank borrows from or otherwise becomes obligated to any person or persons other than the state bank of which he is an officer, in a total amount equal to or exceeding twenty-five thousand dollars excluding such amounts as may be owing by him secured by a first lien on a dwelling which is used by him as his residence, the officer shall report in writing to the superintendent that he is so obligated. Upon the request of the superintendent, an officer of a state bank shall submit to the superintendent, a personal financial statement which shall show the names of all persons to whom the officer is obligated, the dates, terms, and amounts of each loan or other obligation, the security therefor, and the purpose for which the proceeds of such loans or other obligations have been or are to be used.
- (83 Acts, ch 101, § 109) SF 136
Subsection 1, paragraph c amended

524.801 General powers. A state bank, unless otherwise stated in its articles of incorporation, shall have power:

1. To have perpetual succession by its corporate name.
 2. To sue and be sued, complain and defend, in its corporate name.
 3. To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.
 4. To purchase, take, receive, lease, or otherwise acquire, own, hold, improve and use real or personal property, or an interest therein, in connection with the exercise of any power granted in this chapter.
 5. To sell, convey, pledge, mortgage, grant a security interest, lease, exchange, transfer, and release from trust or mortgage or otherwise dispose of all or any part of real or personal property, or an interest therein, in connection with the exercise of any power granted in this chapter.
 6. To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the state bank.
 7. To make donations for the public welfare for religious, charitable, scientific or educational or community development purposes.
 8. To indemnify any director, officer or employee, a former director, officer or employee of the state bank in the manner and in the instances authorized by section 496A.4A.
 9. To elect officers or appoint agents of the state bank and define their duties and fix their compensation.
 10. To cease its existence as a state bank in the manner provided for in this chapter.
 11. To have and exercise all powers necessary and proper to effect any or all of the purposes for which the state bank is organized.
 12. To contract indebtedness and incur liabilities to effect any or all of the purposes for which the state bank is organized, subject to the provisions of this chapter.
- The powers granted in this section shall not be construed as limiting or enlarging any grant of authority made elsewhere in this chapter, or as a limitation on the purposes for which a state bank may be incorporated.

(83 Acts, ch 71, § 5) HF 606

Subsection 8 amended

524.901 Investments.

1. A state bank may invest without limitation for its own account in the following bonds or securities:

a. Obligations of the United States and bonds and securities with respect to which the payment of principal and interest is fully and unconditionally guaranteed by the United States.

b. Obligations issued by any or all of the federal land banks, any or all of the federal intermediate credit banks, any or all of the banks for co-operatives, and any or all of the federal home loan banks, organized under the laws of the United States.

c. Obligations issued by the federal national mortgage association, under the laws of the United States.

d. Any other bonds or securities which are the obligations of or the payment of principal and interest of which is fully and unconditionally guaranteed by a federal reserve bank or by any department, bureau, board, commission, agency or establishment of the United States, or any corporation owned directly or indirectly by the United States.

e. General obligations of the state of Iowa and of political subdivisions thereof.

2. A state bank may invest for its own account in other readily marketable bonds or securities, with investment characteristics as defined by the superintendent by general regulation applicable to all state banks, subject to the following limitations:

a. The total amount of the bonds or securities of any one issuer or obligor, other than revenue or improvement bonds issued by a municipality, the Iowa housing finance authority, or the Iowa family farm development authority and subjected to separate investment limits under paragraphs "b", "c", "d", "f", or "g" of this subsection, shall not exceed twenty percent of the capital and surplus of the state bank.

b. The total amount of special assessment improvement or refunding bonds which have been issued by a municipality under authority of section 384.68 and which are repayable from the proceeds of any one levy shall not exceed twenty percent of the capital and surplus of the state bank.

c. The total amount of revenue bonds and pledge orders which have been issued by a municipality under authority of chapter 384, division V, and which are repayable from the revenues of any one city utility, combined utility system, city enterprise or combined city enterprise shall not exceed twenty percent of the capital and surplus of the state bank.

d. The total amount of revenue bonds issued by a municipality pursuant to section 419.2 which have been issued on behalf of any one lessee, as defined in section 419.1, or which are guaranteed by any one guarantor, or which are issued on behalf of or guaranteed by a corporation, a ten percent or greater ownership interest in which is held by or in common with a lessee or guarantor, or any combination of the foregoing whereby the municipality could receive revenues for payment of such bonds from any one person or any group of persons under common control, shall not exceed twenty percent of the capital and surplus of the state bank.

e. No bond or security shall be eligible for investment by a state bank within this subsection if the bond or security has been in default either as to principal or interest at any time within five years prior to the date of purchase.

f. The total amount of bonds or notes issued by the Iowa family farm development authority pursuant to chapter 175 which have been issued on behalf of any one beginning farmer, as defined in section 175.2, subsection 5, and the proceeds of which have been loaned to that beginning farmer shall not exceed twenty percent of the capital and surplus of the state bank.

g. The total amount of bonds or notes issued by the Iowa housing finance authority pursuant to chapter 220 which have been issued on behalf of any one small business as defined in section 220.1, subsection 28, or any one group home referred to in section 220.1, subsection 11, paragraph "a," and the proceeds of which have been loaned to that small business or group home shall not exceed twenty percent of the capital and surplus of the bank.

h. The total amount of bonds or notes issued by the Iowa family farm development authority pursuant to chapter 175 which have been issued on behalf of any one

owner or operator of agricultural land within the state, as provided for in section 175.34, and the proceeds of which have been loaned to that owner or operator, shall not exceed twenty percent of the capital and surplus of the state bank for each borrower.

3. A state bank shall not, directly or indirectly, invest for its own account in the shares of any corporation except:

a. Shares in a federal reserve bank.
 b. Shares in the federal national mortgage association.
 c. When approved by the superintendent, shares and obligations of a corporation engaged solely in making loans for agricultural purposes eligible to discount or sell loans to a federal intermediate credit bank, commonly known as an agricultural credit corporation, in amounts not to exceed twenty percent of the capital and surplus of the state bank.

d. Shares in a corporation which the state bank is authorized to acquire and hold pursuant to section 524.803, subsection 1, paragraphs "c", "d" and "e".

e. Shares in an economic development corporation organized under chapter 496B to the extent authorized by and subject to the limitations of such chapter.

f. When approved by the superintendent, shares of a small business investment company as defined by the laws of the United States, except that in no event shall any such state bank hold shares in small business investment companies in an amount aggregating more than two percent of its capital and surplus.

4. A state bank may invest in participation certificates issued by one or more production credit associations chartered under the laws of the United States in an amount which does not exceed, in the aggregate with respect to all such associations, twenty percent of the capital and surplus of the state bank.

(83 Acts, ch 124, § 14, 15) SF 223

Subsection 2, paragraph a amended and NEW paragraph g added

(83 Acts, ch 152, § 1) SF 310

NEW paragraph h added to subsection 2

524.905 Loans on real property.

1. *Rules for loans.* A state bank may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the superintendent under chapter 17A. The rules shall include provisions as necessary to ensure the safety and soundness of these loans, and to ensure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

2. *Protective payments — escrow accounts.* A bank may include in the loan documents signed by the borrower a provision requiring the borrower to pay the bank each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the bank in order to better secure the loan. The bank shall be deemed to be acting in a fiduciary capacity with respect to these funds. A bank receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the bank pays to depositors of funds in ordinary savings accounts. A bank which maintains an escrow account in connection with any loan authorized by this section, whether or not the mortgage has been assigned to a third person, shall each year

deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

3. *Escrow reports.* A state bank may act as an escrow agent with respect to real property, and may receive funds and make disbursements from escrowed funds in that capacity. The state bank shall be deemed to be acting in a fiduciary capacity with respect to these funds. A bank which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year. The summary shall be delivered or mailed not later than thirty days following the year to which disclosure relates. The summary shall contain all of the following information:

- a. The name and address of the mortgagee.
 - b. The name and address of the mortgagor.
 - c. A summary of escrow account activity during the year as follows:
 - (1) The balance of the escrow account at the beginning of the year.
 - (2) The aggregate amount of deposits to the escrow account during the year.
 - (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
 - (a) Payments against loan principal.
 - (b) Payments against interest.
 - (c) Payments against real estate taxes.
 - (d) Payments for real property insurance premiums.
 - (e) All other withdrawals.
 - (4) The balance of the escrow account at the end of the year.
 - d. A summary of loan principal for the year as follows:
 - (1) The amount of principal outstanding at the beginning of the year.
 - (2) The aggregate amount of payments against principal during the year.
 - (3) The amount of principal outstanding at the end of the year.
4. *Marketability reports.* If the bank obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title of real property, the unmarketability of the title to real property, or the invalidity or unenforceability of liens or encumbrances upon real property, the bank shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

(83 Acts, ch 124, § 16) SF 223
NEW subsection 4

CHAPTER 533

CREDIT UNIONS

533.16 Loans.

1. A credit union may loan to a member for a provident or productive purpose. Loans shall be subject to the conditions contained in this section and in the bylaws. A loan may be repaid by the borrower, in whole or in part, any day the office of the credit union is open for business. Every loan shall be pursuant to an application with supportive credit information. Any credit or financial information which is required shall be updated by the credit union or by the member not less frequently than every eighteen months for refinanced loans or for periodic advances made under an open-end credit plan.

2. A credit union shall not lend in the aggregate a member more than one hundred dollars or ten percent of its member savings, whichever is greater.

3. A director of a credit union may borrow from that credit union under the

provisions of this chapter, but the loan shall not be made on terms more favorable than those extended to other members. A director of a credit union may borrow from that credit union to the extent and in the amount of such director's holdings in the credit union in shares and deposits. A director desiring to borrow from the credit union an amount in excess of the director's holdings in shares and deposits shall first submit application for approval by the board of directors at a regular or special meeting. The director making application for the loan shall not be in attendance at the time the board of directors considers the application and shall not take part in the consideration. Prior to consideration of such loan, the director must have submitted to the board a detailed current financial statement. The aggregate amount of director loans shall not exceed twenty percent of the assets of the credit union.

4. *a. Rules for loans.* A credit union may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the administrator under chapter 17A. These rules shall contain provisions as necessary to ensure the safety and soundness of these loans, and to ensure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

b. Protective payments — escrow accounts. A credit union may include in the loan documents signed by the borrower a provision requiring the borrower to pay the credit union each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the credit union in order to better secure the loan. The credit union shall be deemed to be acting in a fiduciary capacity with respect to these funds. A credit union receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the credit union pays to its members on ordinary savings deposits. A credit union which maintains an escrow account in connection with any loan authorized by this subsection, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

c. Marketability reports. Section 524.905, subsection 4, applies to the credit union in the same manner as if the credit union is a bank within the meaning of that provision.

5. *Escrow reports.* A credit union may act as an escrow agent with respect to real property that is mortgaged to the credit union, and may receive funds and make disbursements from escrowed funds in that capacity. The credit union shall be deemed to be acting in a fiduciary capacity with respect to these funds. A credit union which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:

a. The name and address of the mortgagee.

- b. The name and address of the mortgagor.
- c. A summary of escrow account activity during the year as follows:
- (1) The balance of the escrow account at the beginning of the year.
 - (2) The aggregate amount of deposits to the escrow account during the year.
 - (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
 - (a) Payments against loan principal.
 - (b) Payments against interest.
 - (c) Payments against real estate taxes.
 - (d) Payments for real property insurance premiums.
 - (e) All other withdrawals.
 - (4) The balance of the escrow account at the end of the year.
- d. A summary of loan principal for the year as follows:
- (1) The amount of principal outstanding at the beginning of the year.
 - (2) The aggregate amount of payments against principal during the year.
 - (3) The amount of principal outstanding at the end of the year.
6. Loans which are not secured by real property shall be subject to the following conditions:
- a. Loans to any one member which in the aggregate exceed the unsecured loan limit established by the board of directors of a credit union shall be secured by one or more cosigners or guarantors, or, by a first lien on collateral having a value which is approximately equal to the amount in excess of such unsecured loan limit. Every cosigner or guarantor shall furnish the credit union with evidence of financial responsibility.
- b. Nothing contained in this subsection shall be deemed to preclude a credit committee or loan officer from requiring security for any loan.
- c. A credit union may make loans insured under the provisions of Title XX, United States Code, section 1071 to section 1087 or similar state programs, loans insured by the federal housing administration under Title XII, United States Code, section 1703, and loans to families of low or moderate income as a part of programs authorized in sections 220.1 to 220.36.
- d. The restrictions and limitations contained in this subsection shall not apply to loans made to a member credit union by a corporate central credit union.
7. Nothing contained in this section shall prevent the renewal or extension of loans.
8. The administrator may impose a penalty on a credit union for each loan made in violation of this section. If a credit union, after notice in writing, and opportunity for hearing, fails to satisfactorily resolve the matter within sixty days from receipt of such notice, the administrator may impose a fine against such credit union in an amount not to exceed one hundred dollars per day per violation for each day the violation remains unresolved.
9. The provisions of the Iowa consumer credit code shall apply to consumer loans made by a credit union, and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan.
10. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or a two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the credit union shall be governed by section 535.9.
11. Real estate loans on one-family to four-family dwellings may be repaid in part or in full at any time, excepting that a credit union may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans. Nothing contained in this subsection, however, authorizes a credit union to charge any advance interest or prepayment penalty where prohibited by section 535.9.

(83 Acts, ch 124, § 17) SF 223

Subsection 4 amended by adding NEW paragraph c

533.24 Taxation. A credit union shall be deemed an institution for savings and shall be subject to taxation only as to its real estate, tangible personal property, moneys and credits. The shares shall not be taxed.

The moneys and credits tax on credit unions is imposed at a rate of five mills on each dollar of the legal and special reserves which are required to be maintained by the credit union under section 533.17, and shall be levied by the board of supervisors, and placed upon the tax list and collected by the county treasurer, except that an exemption shall be given to each credit union in the amount of forty thousand dollars. The amount collected in each taxing district within a city shall be apportioned twenty percent to the county, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in each taxing district outside of cities shall be apportioned fifty percent to the county and fifty percent to the general fund of the state. The moneys and credits tax shall be collected at the location of the credit union as shown in its articles of incorporation.

(83 Acts, ch 123, § 189, 209) HF 628
Unnumbered paragraph 2 amended

533.42 Share drafts.

1. A credit union may provide its members with share draft accounts. Share draft means a negotiable draft which is payable upon demand and is used to withdraw funds from a share draft account. A share draft is an item for purposes of chapter 554, article 4. The term does not include a draft issued by a credit union for the transfer of funds between the issuing credit union and another credit union, a bank, a savings and loan association, or another depository financial institution.

2. A share draft account is an account that is a demand account from which a credit union has agreed that funds may be withdrawn by means of a share draft. A share draft account may bear interest or dividends as determined by the board of directors, provided that a credit union shall not pay interest or dividends on a share draft account at a rate which exceeds the maximum interest rate which a regulated financial institution is able to pay on comparable instruments as allowed by the depository institutions deregulatory committee.

3. A credit union may guarantee payment for a share draft if both the following conditions are met:

a. A specific guarantee authorization is obtained for the share draft from the credit union.

b. The guarantee authorization is immediately noted on the share draft account to prevent the withdrawal of funds needed to pay the guaranteed share draft.

4. A credit union may charge fees and penalties on share drafts and apply fees and penalties to the credit union's income in relation to share draft services.

5. The administrator may adopt rules relating to share draft programs as necessary to administer this chapter.

(83 Acts, ch 98, § 1, 3) SF 90

Effective May 11, 1983

Struck and rewritten

533.44 Share-draft violations — revocation of authority. Repealed by 83 Acts, ch 98, § 2, 3. (SF 90)

Effective May 11, 1983

533.45 Share-draft liquidity reserve — violations — penalty. Repealed by 83 Acts, ch 98, § 2, 3. (SF 90)

Effective May 11, 1983

CHAPTER 534

SAVINGS AND LOAN ASSOCIATIONS

534.8 Transactions of officers, directors, employees. It shall be unlawful for an officer, director or employee of an association:

1. To solicit, accept or agree to accept, directly or indirectly, from any person other than the association any gratuity, compensation or other personal benefit for any action taken by the association or for endeavoring to procure any such action.

2. To make a real estate loan or real estate contract to a director, officer or employee of the association, or to any attorney or firm of attorneys, regularly serving the association in the capacity of attorney at law, or to any partnership in which any such director, officer, employee, attorney or firm of attorneys has any interest, and no real estate loan or real estate contract shall be made to any corporation in which any of such parties are stockholders, except that with the prior approval of its board of directors a real estate loan or real estate contract may be made to a corporation in which no such party owns more than fifteen percent of the total outstanding stock and in which the stock owned by all such parties does not exceed twenty-five percent of the total outstanding stock: Provided, that nothing herein shall prohibit an association from making loans pursuant to section 534.19 and loans on the security of a first lien on the home property or mobile home owned and occupied by a director, officer or employee of an association, or by an attorney or member of a firm of attorneys regularly serving the association in the capacity of attorney at law upon a two-thirds vote of the directors, the interested director not voting.

3. To have any interest, direct or indirect, in the purchase at less than its face value of any evidence of a savings liability or other indebtedness issued by the association or other assets at less than their fair market value.

4. Any association operating under this chapter shall have the power to indemnify any present or former director, officer or employee in the manner and in the instances authorized in section 496A.4A.

(83 Acts, ch 71, § 6) HF 606

Subsection 4 amended

534.12 Members' general rights.

1. *Voting.* Each member shall have one vote for each one hundred dollars of net equity above share loans in his or her share account owned and held by him or her at any election, and may vote the same by proxy, but no person shall vote more than ten percent of the savings liability at the time of said election excepting that proxies held and voted by an individual member or a proxy committee shall not be included in said ten percent limitation. Every proxy shall be in writing and shall, unless otherwise specified in the proxy, continue in force for eleven months from the date thereof, provided that upon receipt of a written request for a new proxy solicitation that is signed by at least two percent of the members of the association, all proxies executed prior to the date of receipt of the written request shall be void upon the expiration of sixty days following the date of receipt of the written request. No proxies shall be voted at any meeting unless such proxies have been on file with the secretary of the association for verification at least five days before the date of the meeting. Anyone depositing or transferring savings as collateral security shall be deemed the owner of such share account within the meaning of this section. Notice of the regular annual meeting of members of an association shall be given by publishing said notice in a newspaper of general circulation in the county in which the office of said association is located at least thirty days before the date set for said annual meeting. Proxies may be revoked by any member upon written notice to the secretary of an association; by execution of a written proxy to another agent; or by personal attendance by the member at the members'

meetings. Each member as defined by section 534.2, subsection 8, shall, regardless of shares, be entitled to at least one vote at any members' meeting.

2. *Withdrawals.* The terms of withdrawal of a member from such association shall be such that any withdrawing member shall receive a sum not less than he has paid into said association less withdrawals and legal charges against the account, unless losses have occurred to said association, during the time that said withdrawing member was a member, which exceed the amount of the profits, or any fund created with which to pay such losses, and in that case such withdrawing member shall be charged with his proportionate share of the excess of the losses over the profits, and no more. Such association may provide by its articles of incorporation or bylaws or by resolution of its board of directors, the order in which withdrawals shall be paid, and when dividends shall cease on share accounts on which withdrawal demands have been made and what portion of the association funds or receipts shall be used for payment of withdrawals.

3. *Association lien on savings accounts.* Every association shall at all times have a lien upon the savings accounts of a savings account holder as security for repayment of money loaned to the person and as security for other indebtedness of the person to the association and the lien shall attach and continue without assignment or pledge to or possession by the association of any evidence of ownership. The lien may be enforced to satisfy any past due indebtedness by charging the indebtedness to the debtor's savings account.

4. *Redemption.* When funds are on hand for the purpose, the association may redeem by lot or otherwise, as the board of directors determines, all or any part of any of its savings accounts on a dividend date by giving thirty days' notice by registered mail addressed to the account holders at their last addresses recorded on the books of the association. An association shall not redeem its share accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than thirty days and have not been reached for payment. The redemption price of a savings account shall be the full value of the account redeemed, as determined by the board of directors, but the redemption value shall not be less than the withdrawal value. If the notice of redemption has been given, and if on or before the redemption date the funds necessary for the redemption have been set aside for redemptions, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and rights with respect to those accounts terminate as of the redemption date, subject only to the right of the account holder of record to receive the redemption value without interest. Savings accounts which have been validly called for redemption must be tendered for payment within ten years from the date of redemption designated in the redemption notice, or they shall be canceled and conveyed to the clerk of court and paid to treasurer of state for distribution under section 602.8107 and all claims of the account holders against the association are barred forever. Redemption shall not be made of any savings accounts which are held by a person who is a director and which are necessary to qualify the person to act as director.

(83 Acts, ch 186, § 10108, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement
Subsection 4 amended

534.12 Members' general rights.

1. *Voting.* Each member shall have one vote for each one hundred dollars of net equity above share loans in his or her share account owned and held by him or her at any election, and may vote the same by proxy, but no person shall vote more than ten percent of the savings liability at the time of said election excepting that proxies held and voted by an individual member or a proxy committee shall not be included in said ten percent limitation. Every proxy shall be in writing and shall, unless otherwise specified in the proxy, continue in force for eleven months from the date

thereof, provided that upon receipt of a written request for a new proxy solicitation that is signed by at least two percent of the members of the association, all proxies executed prior to the date of receipt of the written request shall be void upon the expiration of sixty days following the date of receipt of the written request. No proxies shall be voted at any meeting unless such proxies have been on file with the secretary of the association for verification at least five days before the date of the meeting. Anyone depositing or transferring savings as collateral security shall be deemed the owner of such share account within the meaning of this section. Notice of the regular annual meeting of members of an association shall be given by publishing said notice in a newspaper of general circulation in the county in which the office of said association is located at least thirty days before the date set for said annual meeting. Proxies may be revoked by any member upon written notice to the secretary of an association; by execution of a written proxy to another agent; or by personal attendance by the member at the members' meetings. Each member as defined by section 534.2, subsection 8, shall, regardless of shares, be entitled to at least one vote at any members' meeting.

2. *Withdrawals.* The terms of withdrawal of a member from such association shall be such that any withdrawing member shall receive a sum not less than he has paid into said association less withdrawals and legal charges against the account, unless losses have occurred to said association, during the time that said withdrawing member was a member, which exceed the amount of the profits, or any fund created with which to pay such losses, and in that case such withdrawing member shall be charged with his proportionate share of the excess of the losses over the profits, and no more. Such association may provide by its articles of incorporation or bylaws or by resolution of its board of directors, the order in which withdrawals shall be paid, and when dividends shall cease on share accounts on which withdrawal demands have been made and what portion of the association funds or receipts shall be used for payment of withdrawals.

3. *Association lien on savings accounts.* Every association shall at all times have a lien upon the savings accounts of a savings account holder as security for repayment of money loaned to the person and as security for other indebtedness of the person to the association and the lien shall attach and continue without assignment or pledge to or possession by the association of any evidence of ownership. The lien may be enforced to satisfy any past due indebtedness by charging the indebtedness to the debtor's savings account.

4. *Redemption.* When funds are on hand for the purpose, the association may redeem by lot or otherwise, as the board of directors determines, all or any part of any of its savings accounts on a dividend date by giving thirty days' notice by registered mail addressed to the account holders at their last addresses recorded on the books of the association. An association shall not redeem its share accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than thirty days and have not been reached for payment. The redemption price of a savings account shall be the full value of the account redeemed, as determined by the board of directors, but the redemption value shall not be less than the withdrawal value. If the notice of redemption has been given, and if on or before the redemption date the funds necessary for the redemption have been set aside for redemptions, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and rights with respect to those accounts terminate as of the redemption date, subject only to the right of the account holder of record to receive the redemption value without interest. Savings accounts which have been validly called for redemption must be tendered for payment within ten years from the date of redemption designated in the redemption notice, or they shall be canceled and paid to the treasurer of state for deposit in the general fund of the state and all claims of the account holders against the association are barred forever. Redemption shall

not be made of any savings accounts which are held by a person who is a director and which are necessary to qualify the person to act as director.

(83 Acts, ch 185, § 51, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement

Subsection 4 amended

534.75 Limitation on powers.

1. A service corporation shall not make a commercial loan or accept a commercial NOW account except during those periods of time, if any, when federal service corporations are granted and can exercise similar authority under a federal statute or regulation, and the state authorization is subject to the conditions and limitations imposed upon federal service corporations for a similar activity. Except as provided in this section, an association shall not make a commercial loan or accept a commercial NOW account except during those periods of time, if any, when federal associations are granted and can exercise similar authority under federal statute or regulation, and the state authorization is subject to the conditions and limitations imposed upon federal associations for similar activity. However, an association may make commercial loans and accept commercial NOW accounts under the restrictions contained in subsections 2 and 3 without regard to the authority granted federal associations.

2. As an annual average, based on monthly computations, an association may hold not more than one percent of its assets in commercial loans, provided that this limitation shall increase to two percent of assets on July 1, 1983, to three percent of assets on July 1, 1984, to four percent of assets on July 1, 1985, and to five percent of assets on July 1, 1986, but further provided that commencing on the effective date of any federal statute or federal rule or regulation removing all limitations or controls on the rates of interest that may be paid by banks and savings and loan associations on savings accounts, an association may hold not more than ten percent of its assets in commercial loans.

3. An association may accept a commercial NOW account only from a person who at the time the account is opened has a commercial loan from the association.

4. In addition to other conditions or restrictions, an association that operates one or more branch offices shall not make a commercial loan or accept a commercial NOW account unless all of those office locations are at places which a bank would be authorized under section 524.1202 to apply for and have approved as bank offices, provided that this subsection does not require an association to close any office if the total number of the association's offices does not exceed the number of offices in existence and operating on July 1, 1982 plus the number of offices in existence and operating on July 1, 1982 of any other state association or federal association with which the association merges on or after July 1, 1982. This subsection does not apply to an association that makes only those commercial loans and that accepts only those commercial NOW accounts which the association could make or accept if it were a federal association, subject to any provisions, conditions or limitations relating to or imposed upon federal associations in connection with the activity.

5. For purposes of this section a "commercial loan" is a loan to a person borrowing money for a business or agricultural purpose. As used in this subsection, "agricultural purpose" means as defined in section 535.13; and "business purpose" includes but is not limited to a commercial, service or industrial enterprise carried on for profit, and an investment activity. However "commercial loan" does not include a loan secured by an interest in real estate for the purpose of financing the acquisition of real estate or the construction of improvements on real estate. In determining which loans are "commercial loans" the rules of construction stated in section 535.2, subsection 2, paragraph "b", apply.

6. For purposes of this section a "commercial NOW account" is a NOW account on which an association was prohibited from paying interest on July 1, 1982 by federal statutes or regulations. As used in this paragraph a "NOW account" is a savings account authorized by section 534.11, subsection 11.

7. For purposes of this section a lease of personal property shall be treated as a commercial loan if a loan to the lessee to acquire the property would have been a commercial loan.

(83 Acts, ch 101, § 110) SF 136

Subsection 5 amended

534.80 Authorized real estate loan practices. An association may do any of the following with respect to a real estate loan, and any contract provision authorized by this section shall be enforceable:

1. *Prepayment.* Except as prohibited by section 535.9, an association may include in the loan documents signed by the borrower a provision imposing a penalty in the event of prepayments as defined in the document.

2. *Protective disbursements.* An association may pay taxes, assessments, ground rents, insurance premiums and similar charges with respect to real estate securing a loan. An association may add these disbursements to the unpaid principal balance of the loan, in which event the disbursements shall be secured to the same extent as the principal balance of the loan.

3. *Protective payments — escrow accounts.* An association may include in the loan documents signed by the borrower a provision requiring the borrower to pay the association each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the association in order to better secure the loan. The association shall be deemed to be acting in a fiduciary capacity with respect to these funds. An association receiving funds pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the association pays to members depositing funds in ordinary savings accounts. An association which maintains an escrow account in connection with any real estate loan, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

4. *Escrow reports.* A savings and loan association may act as an escrow agent with respect to real property that is mortgaged to the association, and may receive funds and make disbursements from escrowed funds in that capacity. The association shall be deemed to be acting in a fiduciary capacity with respect to these funds. A savings and loan association which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:

- a. The name and address of the mortgagee.
- b. The name and address of the mortgagor.
- c. A summary of escrow account activity during the year as follows:
 - (1) The balance of the escrow account at the beginning of the year.
 - (2) The aggregate amount of deposits to the escrow account during the year.
 - (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
 - (a) Payments against loan principal.
 - (b) Payments against interest.
 - (c) Payments against real estate taxes.
 - (d) Payments for real property insurance premiums.
 - (e) All other withdrawals.

- (4) The balance of the escrow account at the end of the year.
- d. A summary of loan principal for the year as follows:
 - (1) The amount of principal outstanding at the beginning of the year.
 - (2) The aggregate amount of payments against principal during the year.
 - (3) The amount of principal outstanding at the end of the year.
5. *Additional provisions.* An association may include in the loan documents signed by the borrower any other provision not inconsistent with this chapter.
6. *Marketability reports.* Section 524.905, subsection 4, applies to the association in the same manner as if the association is a bank within the meaning of that provision.

(83 Acts, ch 124, § 18) SF 223
NEW subsection 6

534.83 Investment in and by banks.

1. *Investment in banks.* A holding company, association, or service corporation may invest in the capital stock, obligations, or other securities of a bank with the prior approval of the supervisor.

2. *Investment by banks.* Notwithstanding sections 524.802 and 524.901, subsection 3, a bank holding company, bank, or bank service corporation may, with the prior approval of the superintendent, invest in the capital stock, obligations or other securities of a state association.

The superintendent shall not approve an investment under this subsection if upon making the investment the entity making the investment directly or indirectly would own or control more than twenty-five percent of the voting shares of a savings and loan association or would have the power to control in any manner the election of a majority of the directors of a savings and loan association, unless the superintendent first determines either that the association in which the investment is to be made has only those office locations which a bank would be authorized under section 524.1202 to apply for and have approved on the effective date of the proposed investment, or that all nonconforming office locations were in existence and operating on July 1, 1982. If such an investment is approved by the superintendent, the association so owned or controlled shall not subsequently establish any additional office locations except one which a bank would be authorized under section 524.1202 to apply for and have approved on the date which the proposed office location would commence operations.

3. *Contingencies.* An association or service corporation may make an investment under subsection 1 only if at the time of the investment either an insured bank or a bank service corporation owned by one or more insured banks would be permitted to make an investment under substantially the same circumstances in an insured state association under all applicable laws and regulations of the United States. A bank or bank service corporation may make an investment under subsection 2 only if at the time of the investment either an insured state association or a service corporation owned by one or more insured associations would be permitted to make an investment under substantially the same circumstances in an insured bank under all applicable laws and regulations of the United States. The ability of an organization to merge with another organization is not relevant in determining whether an organization is permitted to invest in another organization.

4. *Bank as holding company.* No bank shall directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any savings and loan association, or the power to control in any manner the election of a majority of the directors of any savings and loan association, if upon such acquisition the associations so owned or controlled by the bank would have, in the aggregate, more than eight percent of the total deposits, both time and demand, of all associations in this state, as determined by the superintendent on the basis of the most recent reports of the associations in the state to their supervisory authorities which are available at the time of the acquisition.

5. *Definitions.* For purposes of this section an "insured bank" is a bank whose deposits are insured in part by the federal deposit insurance corporation; a "bank service corporation" is as defined by, and in accordance with, the laws of the United States, and the "superintendent" is the person appointed pursuant to section 524.201.

6. *Findings required.* The supervisor shall not grant an approval under subsection 1, and the superintendent shall not grant an approval under subsection 2 except after making one of the two following findings:

a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.

b. Based upon a preponderance of the evidence presented, the proposed investment would have the anticompetitive effect specified in paragraph "a" of this subsection, but that other factors, to be specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.

7. *Competition preserved.* The subsequent liquidation of a bank or state association whose shares are acquired under this section shall not prevent the subsequent incorporation of another bank in the same community, and the superintendent of banking shall not find the liquidation to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, and shall not prevent the subsequent incorporation of another association in the same community, and the supervisor shall not find the liquidation to be grounds for disapproving the incorporation of another association in the same community under this chapter.

(83 Acts, ch 101, § 111) SF 136

Subsection 7 amended

CHAPTER 535

MONEY AND INTEREST

535.5 Penalty for usury. *If it is ascertained in an action brought on a contract that a rate of interest has been contracted for, directly or indirectly, in money or in property, greater than is authorized by this chapter, the rate shall work a forfeiture of eight cents on the hundred by the year upon the amount of the principal remaining unpaid upon the contract at the time judgment is rendered, and the court shall enter final judgment in favor of the plaintiff and against the defendant for the principal sum remaining unpaid without costs, and also against the defendant and in favor of the state, to be paid to the treasurer of state for distribution under section 602.8107, for the amount of the forfeiture. If unlawful interest is contracted for the plaintiff shall not have judgment for more than the principal sum, whether the unlawful interest is incorporated with the principal or not.*

(83 Acts, ch 186, § 10109, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

535.5 Penalty for usury. *If it is ascertained in an action brought on a contract that a rate of interest has been contracted for, directly or indirectly, in money or in property, greater than is authorized by this chapter, the rate shall work a forfeiture of eight cents on the hundred by the year upon the amount of the principal remaining unpaid upon the contract at the time judgment is rendered, and the court shall enter final judgment in favor of the plaintiff and against the defendant for the principal sum remaining unpaid without costs, and also against the defendant and in favor of the state, to be paid to the treasurer of state for deposit in the general fund of the state, for the amount of the forfeiture. If unlawful interest is contracted for the plaintiff shall not have judgment for more than the principal sum, whether the unlawful interest is incorporated with the principal or not.*

(83 Acts, ch 185, § 52, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 459)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

535.8 Loan charges limited.

1. As used in this section, the term "loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower. "Loan" includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

2. a. A lender may collect, in connection with a loan made pursuant to a written agreement executed by the borrower on or after July 1, 1983, or in connection with a loan made pursuant to a written commitment by the lender mailed or delivered to the borrower on or after that date, a loan processing fee which does not exceed two percent of an amount which is equal to the loan principal; except that to the extent of an assumption by a new borrower of the obligation to make payments under a prior loan, or to the extent that the loan principal is used to refinance a prior loan between the same borrower and the same lender, the lender may collect a loan processing fee which does not exceed an amount which is a reasonable estimate of the expenses of processing the loan assumption or refinancing but which does not exceed one percent of the unpaid balance of the loan that is assumed or refinanced. In addition, a lender may collect from a borrower, a seller of property, another lender, or any other person, or from any combination of these persons, in contemplation of or in connection with a loan, a commitment fee, closing fee, or both, that is agreed to in writing by the lender and the persons from whom the charges are to be collected. A loan fee collected under this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan fee collected under this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. The collection in connection with a loan of a loan origination fee, closing fee, commitment fee, or similar charge is prohibited other than expressly authorized by this paragraph or a payment reduction fee authorized by subsection 3.

b. A lender may collect in connection with a loan any of the following costs which are incurred by the lender in connection with the loan and which are disclosed to the borrower:

- (1) Credit reports.
- (2) Appraisal fees paid to a third party, or when the appraisal is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the appraisal.
- (3) Attorney's opinions.
- (4) Abstracting fees paid to a third party, or when the abstracting is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the abstracting.
- (5) County recorder's fees.
- (6) Inspection fees.
- (7) Mortgage guarantee insurance charge.
- (8) Surveying of property.
- (9) Termite inspection.

The lender shall not charge the borrower for the cost of revenue stamps or real estate commissions which are paid by the seller. Collection of any cost other than as expressly permitted by this paragraph is prohibited.

c. If the purpose of the loan is to enable the borrower to purchase a single-family or two-family dwelling, for his or her residence, any provision of a loan agreement which prohibits the borrower from transferring his or her interest in the property to a third party for use by the third party as his or her residence, or any provision which requires or permits the lender to make a change in the interest rate, the repayment schedule or the term of the loan as a result of a transfer by the borrower of his or her interest in the property to a third party for use by the third party as

his or her residence shall not be enforceable except as provided in the following sentence. If the lender on reasonable grounds believes that its security interest or the likelihood of repayment is impaired, based solely on criteria which is not more restrictive than that used to evaluate a new mortgage loan application, the lender may accelerate the loan, or to offset any such impairment, may adjust the interest rate, the repayment schedule or the term of the loan. A provision of a loan agreement which violates this paragraph is void.

d. If a lender collects a fee or charge which is prohibited by paragraph "a" or "b" of this subsection or which exceeds the amount permitted by paragraph "a" or "b" of this subsection, the person from whom the fee was collected has the right to recover the unlawful fee or charge or the unlawful portion of the fee or charge, plus attorney fees and costs incurred in any action necessary to effect recovery.

e. Notwithstanding section 628.3 when a foreclosure of a mortgage on real property results from the enforcement of a due-on-sale clause, the mortgagor may redeem the real property at any time within three years from the day of sale under the levy, and the mortgagor shall, in the meantime, be entitled to the possession thereof; and for the first thirty months thereafter such right of redemption is exclusive. Any real property redeemed by the debtor shall thereafter be free and clear from any liability for any unpaid portion of the judgment under which the real property was sold. The right of redemption established by this paragraph is not subject to waiver by the mortgagor and the period of redemption established by this paragraph shall not be reduced. The times for redemption by creditors provided in sections 628.5, 628.15 and 628.16 shall be extended to thirty-three months in any case in which the mortgagor's period for redemption is extended by this paragraph. This paragraph does not apply to foreclosure of a mortgage if for any reason other than enforcement of a due-on-sale clause. As used in this paragraph, "due-on-sale clause" means any type of covenant which gives the mortgagee the right to demand payment of the outstanding balance or a major part thereof upon a transfer by the mortgagor to a third party of an interest of the mortgagor in property covered by the mortgage. This paragraph applies to any foreclosure occurring on or after May 10, 1980. However, this paragraph does not apply if the lender establishes, based on reasonable criteria which are not more restrictive than those used to evaluate new mortgage-loan applications, that the security interest or the likelihood of repayment is impaired as a result of the transfer of interest.

This lettered paragraph applies only to a mortgage given in connection with a loan as defined in subsection 1 of this section.

3. A lender who offers to make a loan with only those fees authorized by subsection 2 may also offer in exchange for the payment of an interest reduction fee to make a loan on all of the same terms except at a lower interest rate and with the lower payments resulting from the lower interest rate. Prior to accepting an application for a loan which includes a payment reduction fee, the lender shall provide the potential borrower with a written disclosure describing in plain language the specific terms which the loan would have both with the payment reduction fee and without it. This disclosure shall include a good faith example showing the amount of the payment reduction fee and the reduction in payments which would result from the payment of this fee in a typical loan transaction. A payment reduction fee which complies with this subsection may be collected in connection with a loan in addition to the fees authorized by subsection 2.

4. A lender shall not, as a condition of making a loan as defined in this section, require the borrower to place money, or to place property other than that which is given as security for the loan, on deposit with or in the possession or control of the lender or some other person if the effect is to increase the yield to the lender with respect to that loan; provided that this subsection shall not prohibit a lender from requiring the borrower to deposit money without interest with the lender in an escrow account for the payment of insurance premiums, property taxes and special

assessments payable by the borrower to third persons. Any lender who requires an escrow account shall not violate the provisions of section 507B.5, subsection 1, paragraph "a".

5. If any lender receives interest either in a manner or in an amount which is prohibited by subsection 4 of this section, the borrower shall have the right to recover all amounts collected or earned by the lender, whether or not from the borrower, in violation of this section, plus attorney fees, plus court costs incurred in any action necessary to effect such recovery.

6. The provisions of this section shall not apply to any loan which is subject to the provisions of section 682.46, nor shall it apply to origination fees, administrative fees, commitment fees or similar charges paid by one lender to another lender if these fees are not ultimately paid either directly or indirectly by the borrower who occupies or will occupy the dwelling or by the seller of the dwelling.

A lender shall not use an appraisal for any purpose in connection with making a loan under this section if the appraisal is performed by a person who is employed by or affiliated with any person receiving a commission or fee from the seller of the property. If a lender violates this paragraph the borrower is entitled to recover any actual damages plus the costs paid by the borrower, plus attorney fees incurred in an action necessary to effect recovery.

(83 Acts, ch 124, § 19, 20) SF 223

Subsection 2, paragraph a, struck and rewritten

NEW subsection 3 and following subsections renumbered

CHAPTER 535C

IOWA LOAN BROKERS ACT

NEW chapter

535C.1 Title. This chapter may be cited as the "Iowa Loan Brokers Act".

(83 Acts, ch 146, § 1) SF 336

NEW section

535C.2 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Loan broker*" or "*broker*" means a person who, in return for consideration to be paid by the borrower before the loan broker or broker has obtained a loan for the borrower or has made a commitment to make a loan, agrees to do either of the following:

- a. Obtain a loan for the borrower or assist the borrower in obtaining a loan.
- b. Consider making a loan to the borrower.

2. "*Loan*" means an agreement to advance money or property in return for the promise that payments will be made for use of the money or property.

3. "*Loan brokerage agreement*" or "*agreement*" means a written agreement in which a broker agrees to do either of the following:

- a. Obtain a loan for the borrower or assist the borrower in obtaining a loan.
- b. Consider making a loan to the borrower.

4. "*Borrower*" means a person who seeks the services of a loan broker.

5. "*Administrator*" means the commissioner of insurance or the deputy appointed under section 502.601.

(83 Acts, ch 146, § 2) SF 336

NEW section

535C.3 Disclosure statement required.

1. At least seven days before the borrower signs an agreement for the services of a loan broker, or at least seven days before the borrower gives the broker any consideration, whichever first occurs, the broker shall give the borrower a written disclosure statement. The cover sheet of the statement shall have printed, in at least

ten point boldface capital letters the title: "DISCLOSURES REQUIRED BY IOWA LAW". The following statement, printed in at least ten point type, shall appear under the title:

"The state of Iowa has not reviewed and does not approve, recommend, endorse, or sponsor any loan brokerage agreement. Neither has the state verified the information contained in this disclosure. If you have questions, seek legal advice before you sign a loan brokerage agreement."

Only the title and the statement shall appear on the cover sheet.

2. The body of the document shall contain the following information in the following order:

- a. The name of the broker; names under which the broker does, has done, or intends to do business; and the name of a parent or affiliated company, if any.
- b. Whether the broker does business as an individual, partnership, corporation, or any other organizational form of the broker's business.
- c. How long the broker has done business.
- d. The number of loan brokerage agreements the broker has entered in the most recent calendar year.
- e. The number of loans the broker has obtained for borrowers in the most recent calendar year.
- f. That a financial statement is on file with the administrator.
- g. A description of the services the broker agrees to perform for the borrower.
- h. The conditions under which the borrower is obligated to pay the broker. This disclosure must be in boldface type.
- i. Either subparagraph (1) or (2), as appropriate:

(1) "As required by Iowa law, this loan broker has secured a bond by _____
name and address of surety company

a surety authorized to do business in Iowa. Before signing an agreement with the broker, you should check with the surety company to determine the bond's current status."

(2) "As required by Iowa law, this loan broker has established a trust account _____ with
number of the account

name and address of the financial institution

Before signing an agreement with the broker, you should check with the financial institution to determine the current status of the trust account."

j. The names, business addresses, titles and principal occupations for the past five years of all officers, directors, or persons occupying a similar position responsible for the broker's business activities.

k. Other information the administrator requires.

(83 Acts, ch 146, § 3) SF 336
 NEW section

535C.4 Surety bond or trust account required. A loan broker shall obtain a surety bond or establish a trust account. The bond or account shall be in the amount of ten thousand dollars and in favor of the state of Iowa. The bond shall be issued by a surety company authorized to do business in this state. The trust account shall be established with a financial institution, as defined in section 422.61, subsection 1, located in Iowa. The administrator shall act as custodian of the bond or account for borrowers entering loan brokerage agreements with the loan broker. Only the administrator may disburse funds from the trust account. A borrower, damaged by a broker's violation of a loan brokerage agreement entered into with the borrower or by the broker's violation of this chapter, may bring an action against the bond or trust account and may receive payment from the surety or trustee. The surety or trustee is liable only for actual damages arising from a violation. The aggregate liability of the surety or trustee from all actions against a broker shall not exceed the amount of the bond or trust account. The amount of the bond or account shall be distributed pro rata among all borrowers bringing actions against the bond or

account within a time designated by the administrator and whose claims are either settled in favor of the borrower or otherwise found to be valid.

The administrator may adopt rules establishing the term and length of the surety bond or trust account.

A broker who does not obtain a bond or establish an account is guilty of a serious misdemeanor.

(83 Acts, ch 146, § 4) SF 336

NEW section

535C.5 Filing with the administrator — penalty.

1. Before advertising or making other oral or written representations, or acting as a loan broker in this state, a loan broker shall file with the administrator copies of the disclosure statement required under section 535C.3, the most recent financial statement of the broker, and either of the following:

a. The bond required under section 535C.4.

b. The formal notification from the financial institution that the trust account required under section 535C.4 is established.

2. The broker shall amend these filings no less than annually and, in addition, shall file amendments within forty- five days of any material change in the following:

a. The status of the bond or account.

b. The financial statement of the broker.

c. Information required by the disclosure statement. A broker who does not file the copies required is guilty of a serious misdemeanor.

3. The broker shall pay a fifty dollar filing fee with the initial disclosure statement filed under subsection 1. A twenty-five dollar fee shall be charged for each amendment under subsection 2.

4. The administrator shall review the disclosure statement for compliance with requirements imposed under this chapter.

5. The administrator may by order prohibit a broker from advertising, making oral or written representations, or acting as a loan broker if the order is found to be in the public interest and either of the following apply:

a. The disclosure statement or financial statement on file is incomplete in any material respect or contains any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. The loan broker has willfully violated or willfully failed to comply with any provision of this chapter.

6. The information contained or filed under this section may be made available to the public under such rules as the administrator prescribes.

(83 Acts, ch 146, § 5) SF 336

NEW section

535C.6 Penalties. A broker is guilty of a serious misdemeanor for failure to do any of the following:

1. Obtain and maintain a surety bond or establish and maintain a trust account as required in section 535C.4.

2. Make accurate and timely filings as required in section 535C.5.

(83 Acts, ch 146, § 6) SF 336

NEW section

535C.7 Written agreements required. A loan brokerage agreement shall be in writing and signed by the broker and the borrower. The broker shall give the borrower a copy of the agreement when the borrower signs the agreement.

(83 Acts, ch 146, § 7) SF 336

NEW section

535C.8 Waiver of rights. A waiver of this chapter by a borrower prior to or at the time of entering into a loan brokerage agreement is contrary to public policy and is void. An attempt by a loan broker to have a borrower waive any rights given in this chapter is a violation of this chapter.

(83 Acts, ch 146, § 8) SF 336

NEW section

535C.9 Rules. The administrator may adopt rules according to chapter 17A as necessary or appropriate to implement the purposes of this chapter.

(83 Acts, ch 146, § 9) SF 336

NEW section

535C.10 Remedies.

1. If a broker materially violates the loan brokerage agreement, the borrower may, upon written notice, void the agreement. In addition, the borrower may recover all moneys paid the broker and may recover other damages including reasonable attorney's fees. The broker materially violates the agreement if the broker does any of the following:

- a. Makes false or misleading statements relative to the agreement.
- b. Does not comply with the agreement or the obligations arising from the agreement.
- c. Does not either grant the borrower a loan or diligently attempt to obtain a loan for the borrower.
- d. Does not comply with the requirements of this chapter.

2. A violation of this chapter is a violation of the Iowa consumer fraud Act, section 714.16.

3. Remedies under this chapter are in addition to other remedies available in law or equity.

(83 Acts, ch 146, § 10) SF 336

NEW section

535C.11 Applicability. This chapter does not apply to any activities or arrangements expressly approved or regulated by any regulatory body or officer acting under authority of this state, other than the administrator, or of the United States.

(83 Acts, ch 146, § 11) SF 336

NEW section

CHAPTER 536A

IOWA INDUSTRIAL LOAN LAW

536A.20 Real estate loans.

1. A licensed industrial loan company may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the auditor under chapter 17A. These rules shall contain provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

2. A licensed industrial loan company may require and establish escrow accounts in connection with subsection 3.

3. A licensed industrial loan company may act as an escrow agent with respect to real property that is mortgaged to the licensed industrial loan company, and may receive funds and make disbursements from escrowed funds in that capacity. The licensed industrial loan company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A licensed industrial loan company which maintains such an escrow account, whether or not the mortgage has been assigned to a third

person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:

- a. The name and address of the mortgagee.
- b. The name and address of the mortgagor.
- c. A summary of escrow account activity during the year as follows:
 - (1) The balance of the escrow account at the beginning of the year.
 - (2) The aggregate amount of deposits to the escrow account during the year.
 - (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
 - (a) Payments against loan principal.
 - (b) Payments against interest.
 - (c) Payments against real estate taxes.
 - (d) Payments for real property insurance premiums.
 - (e) All other withdrawals.
 - (4) The balance of the escrow account at the end of the year.
- d. A summary of loan principal for the year as follows:
 - (1) The amount of principal outstanding at the beginning of the year.
 - (2) The aggregate amount of payments against principal during the year.
 - (3) The amount of principal outstanding at the end of the year.
4. Section 524.905, subsection 4, applies to the licensed industrial loan company in the same manner as if the licensed industrial loan company is a bank within the meaning of that provision.

(83 Acts, ch 124, § 21—23) SF 223

Amended

NEW subsections 3 and 4

CHAPTER 536B

IOWA INDUSTRIAL LOAN CORPORATION THRIFT GUARANTY LAW

536B.8 Guarantee fund.

1. The guaranty corporation shall establish and maintain a guarantee fund which shall consist of the membership assessments under section 536B.5, plus the assessments under subsections 2 and 3.

2. Beginning with the year in which this chapter takes effect [1981], the members of the guaranty corporation shall be subject to an assessment on May 1 of each year. The amount of the annual assessment is determined by the amount in the fund on December 31 of the prior year, net of any demands made by the auditor under section 536B.11 and remaining unpaid at such December 31, as follows: If the net amount in the fund is less than the greater of two million dollars or two percent of the total thrift certificates of all members, the annual assessment for each member shall equal one-fourth of one percent of the member's thrift certificates which are outstanding on December 31 of the year prior to the levy; and if the net amount in the fund exceeds the greater of two million dollars or two percent of the aggregate thrift certificates of all members, no annual assessment shall be made.

3. If upon liquidation of a member the amount available in the guarantee fund is insufficient to pay up to ten thousand dollars for each thrift certificate obligation specified in section 536B.7, the auditor may make demand upon the guaranty corporation for advance payment of annual assessments to become due in amounts required to meet the deficiency, but not exceeding two times the maximum assess-

ment that could have been levied on each member on the prior May 1 as the annual assessment if the net amount in the fund the preceding December 31 had been less than the greater of two million dollars or two percent of the total thrift certificates of all members. An amount prepaid by a member shall be credited against subsequent annual assessments, and the member shall pay the balance of the annual assessments thus due, if any, or shall be refunded any amount overpaid as a result of the advance assessment. A member shall not be required to be prepaid in excess of two years.

(83 Acts, ch 101, § 112) SF 136
Subsection 3 amended

536B.14 Investments of guarantee fund.

1. The guaranty corporation may invest its funds only as provided by rules promulgated by the auditor. The auditor shall promulgate rules which are reasonably necessary for the purpose of preserving reasonable liquidity of the guarantee fund.

2. Income from investments shall be recorded in an income account and shall be used to defray expenses of administration. Income from investments that exceeds an amount determined by the board of directors to be adequate to provide for current expenses may be credited to members' accounts. Each member's account shall receive credit ratably, based on member account balances. Income received by the guaranty corporation, whether or not credited to members' accounts, shall be subject to a demand of the auditor made under section 536B.11, except as to that portion reserved by the board of directors for expenses of administration during the calendar year.

3. Expenses of administration that exceed income from investments at the end of the fiscal year of the guaranty corporation shall be charged to members' accounts. Each member's account shall be charged ratably based on member account balances for the amount of the excess of expenses over income.

(83 Acts, ch 101, § 113) SF 136
Subsection 3 amended

CHAPTER 537

CONSUMER CREDIT CODE

537.1301 General definitions. As used in this chapter, unless otherwise required by the context:

1. "*Actuarial method*" means the method of allocating payments made on a debt between the amount financed and the finance charge, pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed. The administrator may adopt rules not inconsistent with the Truth in Lending Act further defining the term and prescribing its application.

2. "*Administrator*" means the administrator designated in section 537.6103.

3. "*Agreement*" means the oral or written bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance.

4. "*Amount financed*" means:

a. In the case of a sale, the cash price of the goods, services, or interest in land, plus the amount actually paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest in, a lien on, or a debt with respect to property traded in, less the amount of any down payment whether made in cash or in property traded in, plus additional charges if permitted under paragraph "c".

b. In the case of a loan, the net amount paid to, receivable by, or paid or payable for the account of the debtor, plus the amount of any discount excluded from the

finance charge under subsection 20, paragraph "b," subparagraph 3, plus additional charges if permitted under paragraph "c" of this subsection.

c. In the case of a sale or loan, additional charges permitted under section 537.2501, to the extent that payment is deferred, that the charge is not otherwise included, in the amount permitted respectively in paragraph "a" or "b", and that the charge is authorized by and disclosed to the consumer as required by law.

5. "*Billing cycle*" means the time interval between periodic billing statement dates.

6. "*Card issuer*" means a person who issues a credit card.

7. "*Cardholder*" means a person to whom a credit card is issued or who has agreed with the card issuer to pay obligations arising from the issuance or use of the card to or by another person.

8. "*Cash price*" of goods, services or an interest in land means the price at which they are sold by the seller to cash buyers in the ordinary course of business, and may include the cash price of accessories or services related to the sale, such as delivery, installation, alterations, modifications and improvements, and taxes to the extent imposed on a cash sale of the goods, services or interest in land.

9. *Conspicuous*. A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. Whether or not a term or clause is conspicuous is for decision by the court.

10. "*Consumer*" means the buyer, lessee, or debtor to whom credit is granted in a consumer credit transaction.

11. "*Consumer credit transaction*" means a consumer credit sale or consumer loan, or a refinancing or consolidation thereof, or a consumer lease.

12. *Consumer credit sale*.

a. Except as provided in paragraph "b", a consumer credit sale is a sale of goods, services, or an interest in land in which all of the following are applicable:

(1) Credit is granted either pursuant to a seller credit card or by a seller who regularly engages as a seller in credit transactions of the same kind.

(2) The buyer is a person other than an organization.

(3) The goods, services or interest in land are purchased primarily for a personal, family or household purpose.

(4) Either the debt is payable in installments or a finance charge is made.

(5) With respect to a sale of goods or services, the amount financed does not exceed twenty-five thousand dollars.

b. A "*consumer credit sale*" does not include:

(1) A sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card.

(2) A sale of an interest in land if the finance charge does not exceed twelve percent per year calculated on the actuarial method on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term.

13. *Consumer lease*. A "*consumer lease*" is a lease of goods in which all of the following are applicable:

a. The lessor is regularly engaged in the business of leasing.

b. The lessee is a person other than an organization.

c. The lessee takes under the lease primarily for a personal, family or household purpose.

d. The amount payable under the lease does not exceed twenty-five thousand dollars.

e. The lease is for a term exceeding four months.

14. *Consumer loan*.

a. Except as provided in paragraph "b", a "*consumer loan*" is a loan in which all of the following are applicable:

(1) The person is regularly engaged in the business of making loans.

- (2) The debtor is a person other than an organization.
- (3) The debt is incurred primarily for a personal, family or household purpose.
- (4) Either the debt is payable in installments or a finance charge is made.
- (5) The amount financed does not exceed twenty-five thousand dollars.

b. A "consumer loan" does not include:

(1) A sale or lease in which the seller or lessor allows the buyer or lessee to purchase or lease pursuant to a seller credit card.

(2) A debt which is secured by a first lien on real property and which is incurred primarily for the purpose of acquiring that real property, or refinancing a contract for deed to that real property, or constructing on that real property a building containing one or more dwelling units.

(3) A loan financed by the Iowa housing finance authority and secured by a lien on land.

c. In determining which loans are consumer loans under this subsection the rules of construction stated in this paragraph shall be applied:

(1) A debt is incurred primarily for the purpose to which a majority of the loan proceeds are applied or are designated by the debtor to be applied.

(2) Loan proceeds used to refinance or pay a prior loan owed by the same borrower are incurred for the same purposes and in the same proportion as the principal of the loan refinanced or paid.

(3) Loan proceeds used to pay a prior loan by a different borrower are incurred for the new borrower's purposes in agreeing to pay the prior loan.

(4) The assumption of a loan by a different borrower is treated as if the new borrower had obtained a new loan and had used all of the proceeds to pay the loan assumed.

(5) The provisions of this paragraph shall not be construed to modify or limit the provisions of section 535.8, subsection 2, paragraph "c" or "e."

15. "Credit" means the right granted by a person extending credit to a person to defer payment of debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor.

16. "Credit card" means a card or device issued under an arrangement pursuant to which a card issuer gives a cardholder the privilege of purchasing or leasing property or purchasing services, obtaining loans, or otherwise obtaining credit from the card issuer or other persons. A transaction is "pursuant to a credit card" if credit is obtained according to the terms of the arrangement by transmitting information contained on the card or device orally, in writing, by mechanical or automated methods, or in any other manner. A transaction is not "pursuant to a credit card" if the card or device is used solely to identify the cardholder and credit is not obtained according to the terms of the arrangement.

17. "Creditor" means the person who grants credit in a consumer credit transaction or, except as otherwise provided, an assignee of a creditor's right to payment, but use of the term does not in itself impose on an assignee any obligation of his assignor. In the case of credit granted pursuant to a credit card, the "creditor" is the card issuer and not another person honoring the credit card.

18. "Earnings" means compensation paid or payable to an individual or for his account for personal services rendered or to be rendered by him, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension, retirement or disability program.

19. *Finance charge.*

a. Except as otherwise provided in subsection "b", "finance charge" means the sum of all charges payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, including any of the following types of charges which are applicable:

- (1) Interest or any amount payable under a point, discount or other system of

charges, however denominated, except that with respect to a consumer credit sale of goods or services a cash discount of five percent or less of the stated price of goods or services which is offered to the consumer for payment by cash, check or the like either immediately or within a period of time, is not part of the finance charge for the purpose of determining maximum charges pursuant to section 537.2401. A cash discount permitted by this subparagraph is not part of the finance charge for the purpose of determining compliance with section 537.3201 if it is properly disclosed as required by the Truth in Lending Act as amended to and including July 1, 1982 and regulations issued pursuant to that Act prior to July 1, 1982.

(2) Time price differential, credit service, service, carrying or other charge, however denominated.

(3) Premium or other charge for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.

(4) Charges incurred for investigating the collateral or credit-worthiness of the consumer or for commissions or brokerage for obtaining the credit, irrespective of the person to whom the charges are paid or payable, unless the creditor had no notice of the charges when the credit was granted.

b. "Finance charge" does not include:

(1) Charges as a result of default or delinquency if made for actual unanticipated late payment, delinquency, default, or other like occurrence unless the parties agree that these charges are finance charges. A charge is not made for actual unanticipated late payment, delinquency, default or other like occurrence if imposed on an account which is or may be debited from time to time for purchases or other debts and, under its terms, payment in full or at a specified amount is required when billed, and in the ordinary course of business the consumer is permitted to continue to have purchases or other debts debited to the account after the imposition of the charge.

(2) Additional charges as defined in section 537.2501, or deferral charges as defined in section 537.2503.

(3) A discount, if a creditor purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation.

20. "Gift certificate" means a merchandise certificate conspicuously designated as a gift certificate, and purchased by a buyer for use by a person other than the buyer.

21. a. "Goods" includes, but is not limited to:

(1) "Goods" as described in section 554.2105, subsection 1.

(2) Goods not in existence at the time the transaction is entered into.

(3) Things in action.

(4) Investment securities.

(5) Mobile homes regardless of whether they are affixed to the land.

(6) Gift certificates.

b. "Goods" excludes money, chattel paper, documents of title, instruments and merchandise certificates other than gift certificates.

22. "Insurance premium loan" means a consumer loan that is made for the sole purpose of financing the payment by or on behalf of an insured of the premium on one or more policies or contracts issued by or on behalf of an insurer, is secured by an assignment by the insured to the lender of the unearned premium on the policy or contract, and contains an authorization to cancel the policy or contract financed.

23. "Lender" means a person who makes a loan or, except as otherwise provided in this Act, a person who takes an assignment of a lender's right to payment, but use of the term does not in itself impose on an assignee any obligation of the lender.

24. "Lender credit card" means a credit card issued by a lender.

25. a. "Loan" means any of the following, except as provided in paragraph "b":

(1) The creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third person for the account of the debtor.

(2) The creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately.

(3) The creation of debt pursuant to a lender credit card in any manner, including a cash advance or the card issuer's honoring a draft or similar order for the payment of money drawn or accepted by the debtor, paying or agreeing to pay the debtor's obligation, or purchasing or otherwise acquiring the debtor's obligation from the obligee or his assignees.

(4) The creation of debt by a cash advance to a debtor pursuant to a seller credit card.

(5) The forbearance of debt arising from a loan.

b. "Loan" does not include:

(1) A card issuer's payment or agreement to pay money to a third person for the account of a debtor if the debt of the debtor arises from a sale or lease and results from use of a seller credit card.

(2) The forbearance of debt arising from a sale or lease.

26. "Merchandise certificate" means a writing not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services. Sale of a merchandise certificate on credit is a credit sale beginning at the time the certificate is redeemed.

27. "Official fees" means:

a. Fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, terminating, or satisfying a security interest related to a consumer credit transaction.

b. Premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph "a" which would otherwise be payable.

28. "Open-end credit" means an arrangement pursuant to which all of the following are applicable:

a. A creditor may permit a consumer, from time to time, to purchase or lease on credit from the creditor or pursuant to a credit card, or to obtain loans from the creditor or pursuant to a credit card.

b. The amounts financed and the finance and other appropriate charges are debited to an account.

c. The finance charge, if made, is computed on the account periodically.

d. Either the consumer has the privilege of paying in full or in installments, or the transaction is a consumer credit transaction solely because a delinquency charge or the like is treated as a finance charge pursuant to subsection 20, paragraph "b", subparagraph (1) of this section or the creditor otherwise periodically imposes charges computed on the account for delaying payment of it and permits the consumer to continue to purchase or lease on credit.

29. "Organization" means a corporation, government or governmental subdivision or agency, trust, estate, co-operative, or association.

30. "Payable in installments" means that payment is required or permitted by agreement to be made in more than four periodic payments, excluding a down payment. If any periodic payment other than the down payment under an agreement requiring or permitting two or more periodic payments is more than twice the amount of any other periodic payment excluding the down payment, a transaction is "payable in installments".

31. "Person" means:

a. A natural person, partnership, or an individual.

b. An organization.

32. a. "Person related to" with respect to a natural person or an individual means any of the following:

(1) The spouse of the individual.

- (2) A brother, brother-in-law, sister, or sister-in-law of the individual.
- (3) An ancestor or lineal descendant of the individual or his spouse.
- (4) Any other relative, by blood or marriage, of the individual or his spouse, if the relative shares the same home with the individual.

b. "*Person related to*" with respect to an organization means:

- (1) A person directly or indirectly controlling, controlled by or under common control with the organization.
- (2) An officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization.
- (3) The spouse of a person related to the organization.
- (4) A relative by blood or marriage of a person related to the organization who shares the same home with him.

33. A "*precomputed consumer credit transaction*" is a consumer credit transaction, other than a consumer lease, in which the debt is a sum comprising the amount financed and the amount of the finance charge computed in advance. A disclosure required by the Truth in Lending Act does not in itself make a finance charge or transaction precomputed.

34. "*Presumed*" or "*presumption*" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

35. "*Sale of goods*" includes, but is not limited to, any agreement in the form of a bailment or lease of goods if the bailee or lessee pays or agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with the terms of the agreement.

36. "*Sale of an interest in land*" includes, but is not limited to, a lease in which the lessee has an option to purchase the interest, by which all or a substantial part of the rental or other payments previously made by him are applied to the purchase price.

37. "*Sale of services*" means furnishing or agreeing to furnish services for a consideration and includes making arrangements to have services furnished by another.

38. "*Seller*" means a person who makes a sale or, except as otherwise provided in this chapter, a person who takes an assignment of the seller's right to payment, but use of the term does not in itself impose on an assignee any obligation of the seller.

39. "*Seller credit card*" means either of the following:

a. A credit card issued primarily for the purpose of giving the cardholder the privilege of using the credit card to purchase or lease property or services from the card issuer, persons related to the card issuer, persons licensed or franchised to do business under the card issuer's business or trade name or designation, or from any of these persons and from other persons as well.

b. A credit card issued by a person other than a supervised lender primarily for the purpose of giving the cardholder the privilege of using the credit card to purchase or lease property or services from at least one hundred persons not related to the card issuer.

40. "*Services*" includes, but is not limited to:

a. Work, labor, and other personal services.

b. Privileges or benefits with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like.

c. Insurance.

41. "*Supervised financial organization*" means a person, other than an insurance company or other organization primarily engaged in an insurance business, which

is organized, chartered, or holding an authorization certificate pursuant to chapter 524, 533, or 534, or pursuant to the laws of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account, and which is subject to supervision by an official or agency of this state or of the United States.

42. "*Supervised loan*" means a consumer loan, including a loan made pursuant to open end credit, in which the rate of the finance charge, calculated according to the actuarial method, exceeds the rate of finance charge permitted in chapter 535.

With respect to a consumer loan made pursuant to open end credit, the finance charge shall be deemed not to exceed the rate permitted in chapter 535 if the finance charge contracted for and received does not exceed a charge for each monthly billing cycle which is one-twelfth of that rate multiplied by the average daily balance of the open end account in the billing cycle for which the charge is made. The average daily balance of the open end account is the sum of the amount unpaid each day during that cycle divided by the number of days in the cycle. The amount unpaid on a day is determined by adding to the balance, if any, unpaid as of the beginning of that day all purchases and other debits and deducting all payments and other credits made or received as of that day. If the billing cycle is not monthly, the finance charge shall be deemed not to exceed that rate per year if the finance charge contracted for and received does not exceed a percentage which bears the same relation to that rate as the number of days in the billing cycle bears to three hundred sixty-five. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

43. "*Mortgage lender*" means a domestic or foreign corporation authorized in this state to make loans secured by mortgages or deeds of trust.

(83 Acts, ch 101, § 114) SF 136

Unnumbered paragraph 1 amended

(83 Acts, ch 124, § 24, 25) SF 223

See Code editor's note at the end of this Supplement

Subsection 14, paragraph a, subparagraph (5) amended

NEW subsection 43

537.2401 Finance charge for consumer loans not pursuant to open end credit.

1. Except as provided with respect to a finance charge for loans pursuant to open end credit under section 537.2402, a lender may contract for and receive a finance charge not exceeding the maximum charge permitted by the laws of this state or of the United States for similar lenders, and, in addition, with respect to a consumer loan, a supervised financial organization or a mortgage lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding twenty-one percent per year on the unpaid balance of the amount financed. This subsection does not prohibit a lender from contracting for and receiving a finance charge exceeding twenty-one percent per year on the unpaid balance of the amount financed on consumer loans if authorized by other provisions of the law.

2. This section does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the finance charge does not exceed that permitted by this section or the laws of this state or of the United States. The finance charge permitted by this section or the laws of this state or of the United States may be calculated by determining the single annual percentage rate as required to be disclosed to the consumer pursuant to section 537.3201 which, when applied according to the actuarial method to the unpaid balances of the amount financed, will yield the finance charge for that transaction which would result from applying any graduated rates permitted by this section or the laws of this state or of the United States to the transaction on the assumption that all scheduled payments will be made when due. If the loan is a precomputed consumer credit transaction, the finance charge may be calculated on the assumption that all scheduled payments will be made when due, and the effect of prepayment is governed by section 537.2510.

3. Except as provided in subsection 5, the term of a loan for the purposes of this section commences on the date the loan is made. Any month may be counted as one-twelfth of a year but a day is counted as one-three hundred sixty-fifth of a year. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen days may be treated as a full month if periods of fifteen days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. The administrator may adopt rules not inconsistent with the Truth in Lending Act with respect to treating as regular other minor irregularities in amount or time.

4. Subject to classifications and differentiations the lender may reasonably establish, he may make the same finance charge on all amounts financed within a specified range. A finance charge so made does not violate subsection 1, if both of the following are applicable:

a. When applied to the median amount within each range, it does not exceed the maximum permitted by that subsection.

b. When applied to the lowest amount within each range, it does not produce a rate of finance charge exceeding the rate calculated according to paragraph "a" by more than eight percent of the rate calculated according to paragraph "a".

5. With respect to an insurance premium loan, the term of the loan commences on the earliest inception date of a policy or contract of insurance for which the premium is financed.

(83 Acts, ch 124, § 26) SF 223

Subsection 1 amended

537.7103 Prohibited practices.

1. A debt collector shall not collect or attempt to collect a debt by means of an illegal threat, coercion or attempt to coerce. The conduct described in each of the following paragraphs is an illegal threat, coercion or attempt to coerce within the meaning of this subsection:

a. The use, or express or implicit threat of use, of force, violence or other criminal means, to cause harm to a person or to property of a person.

b. The false accusation or threat to falsely accuse a person of fraud or any other crime.

c. False accusations made to a person, including a credit reporting agency, or the threat to falsely accuse, that a debtor is willfully refusing to pay a just debt. However, a failure to reply to requests for payment and a failure to negotiate disputes in good faith are deemed willful refusal.

d. The threat to sell or assign to another an obligation of the debtor with an attending representation or implication that the result of the sale or assignment will be to subject the debtor to harsh, vindictive or abusive collection attempts.

e. The false threat that nonpayment of a debt may result in the arrest of a person or the seizure, garnishment, attachment or sale of property or wages of that person.

f. An action or threat to take an action prohibited by this chapter or any other law.

2. A debt collector shall not oppress, harass or abuse a person in connection with the collection or attempted collection of a debt of that person or another person. The following conduct is oppressive, harassing or abusive within the meaning of this subsection:

a. The use of profane or obscene language or language that is intended to abuse the hearer or reader and which by its utterance would tend to incite an immediate breach of the peace.

b. The placement of telephone calls to the debtor without disclosure of the name of the business or company the debt collector represents.

c. Causing expense to a person in the form of long distance telephone tolls, telegram fees or other charges incurred by a medium of communication by attempting to deceive or mislead persons as to the true purpose of the notice, letter, message or communication.

d. Causing a telephone to ring or engaging a person in telephone conversation repeatedly or continuously or at unusual hours or times known to be inconvenient, with intent to annoy, harass or threaten a person.

3. A debt collector shall not disseminate information relating to a debt or debtor as follows:

a. The communication or threat to communicate or imply the fact of a debt to a person other than the debtor or a person who might reasonably be expected to be liable for the debt, except with the written permission of the debtor given after default. For the purposes of this paragraph, the use of language on envelopes indicating that the communication relates to the collection of a debt is a communication of the debt. However, this paragraph does not prohibit a debt collector from any of the following:

(1) Notifying a debtor of the fact that he may report a debt to a credit bureau or engage an agent or an attorney for the purpose of collecting the debt.

(2) Reporting a debt to a credit reporting agency or any other person reasonably believed to have a legitimate business need for the information.

(3) Engaging an agent or attorney for the purpose of collecting a debt.

(4) Attempting to locate a debtor whom the debt collector has reasonable grounds to believe has moved from his residence, where the purpose of the communication is to trace the debtor, and the content of the communication is restricted to requesting information on the debtor's location.

(5) Communicating with the debtor's employer or credit union not more than once during any three-month period when the purpose of the communication is to obtain an employer's or credit union's debt counseling services for the debtor. In the event no response is received by the debt collector from a communication to the debtor's employer or credit union the debt collector may make one inquiry as to whether the communication was received. In addition a debt collector may respond to any communications by a debtor's employer or credit union.

(6) Communicating with the debtor's employer once during any one-month period, if the purpose of the communication is to verify with an employer the fact of the debtor's employment and if the debt collector does not disclose, except as permitted in subparagraph (5), information other than the fact that a debt exists. This subparagraph does not authorize a debt collector to disclose to an employer the fact that a debt is in default.

(7) Communicating the fact of the debt not more than once in any three-month period, with the parents of a minor debtor, or with any trustee of any property of the debtor, conservator of the debtor or the debtor's property, or guardian of the debtor. In addition, a debt collector may respond to inquiry from a parent, trustee, conservator or guardian.

(8) Communicating with the debtor's spouse with the consent of the debtor, or responding to inquiry from the debtor's spouse.

b. The disclosure, publication, or communication of information relating to a person's indebtedness to another person, by publishing or posting a list of indebted persons, commonly known as "deadbeat lists", or by advertising for sale a claim to enforce payment of a debt when the advertisement names the debtor.

c. The use of a form of communication to the debtor, except a telegram, an original notice or other court process, or an envelope displaying only the name and address of a debtor and the return address of the debt collector, intended or so designed as to display or convey information about the debt to another person other than the name, address, and phone number of the debt collector.

4. A debt collector shall not use a fraudulent, deceptive, or misleading representation or means to collect or attempt to collect a debt or to obtain information concerning debtors. The following conduct is fraudulent, deceptive, or misleading within the meaning of this subsection:

a. The use of a business, company or organization name while engaged in the

collection of debts, other than the true name of the debt collector's business, company, or organization or the name of the business or company the debt collector represents.

b. The failure to clearly disclose in all written communications made to collect or attempt to collect a debt or to obtain or attempt to obtain information about a debtor, that the debt collector is attempting to collect a debt and that information obtained will be used for that purpose, except where disclosure would tend to embarrass the debtor.

c. A false representation that the debt collector has information in his possession or something of value for the debtor, which is made to solicit or discover information about the debtor.

d. The failure to clearly disclose the name and full business address of the person to whom the claim has been assigned at the time of making a demand for money.

e. An intentional misrepresentation, or a representation which tends to create a false impression of the character, extent or amount of a debt, or of its status in a legal proceeding.

f. A false representation, or a representation which tends to create a false impression, that a debt collector is vouched for, bonded by, affiliated with, or an instrumentality, agency or official of the state or an agency of federal, state or local government.

g. The use or distribution or sale of a written communication which simulates or is falsely represented to be a document authorized, issued or approved by a court, an official or other legally constituted or authorized authority, or which tends to create a false impression about its source, authorization or approval.

h. A representation that an existing obligation of the debtor may be increased by the addition of attorney's fees, investigation fees, service fees or other fees or charges, when in fact such fees or charges may not legally be added to the existing obligation.

i. A false representation, or a representation which tends to create a false impression, about the status or true nature of, or services rendered by, the debt collector or his business.

5. A debt collector shall not engage in the following conduct to collect or attempt to collect a debt:

a. The seeking or obtaining of a written statement or acknowledgment in any form that specifies that a debtor's obligation is one chargeable upon the property of either husband or wife or both, under section 597.14, when the original obligation was not in fact so chargeable.

b. The seeking or obtaining of a written statement or acknowledgment in any form containing an affirmation of an obligation which has been discharged in bankruptcy, without clearly disclosing the nature and consequences of the affirmation and the fact that the debtor is not legally obligated to make the affirmation. However, this subsection does not prohibit the accepting of promises to pay that are voluntarily written and offered by a bankrupt debtor.

c. The collection of or the attempt to collect from the debtor a part or all of the debt collector's fee for services rendered, unless the debt collector is legally entitled to collect the fee from the debtor.

d. The collection of or the attempt to collect interest or other charge, fee or expense incidental to the principal obligation unless the interest or incidental charge, fee, or expense is expressly authorized by the agreement creating the obligation and is legally chargeable to the debtor, or is otherwise legally chargeable.

e. A communication with a debtor when the debt collector knows that the debtor is represented by an attorney and the attorney's name and address are known, or could be easily ascertained, unless the attorney fails to answer correspondence, return phone calls or discuss the obligation in question, within a reasonable time, or prior approval is obtained from the debtor's attorney or when the communication is a response in the ordinary course of business to the debtor's inquiry.

6. A debt collector shall not use or distribute, sell or prepare for use, a written communication that violates or fails to conform to United States postal laws and regulations.

(83 Acts, ch 101, § 115) SF 136

Subsection 3, paragraph a, subparagraph (6) amended

CHAPTER 537A

CONTRACTS

537A.4 Gaming contracts void. All promises, agreements, notes, bills, bonds, or other contracts, mortgages or other securities, when the whole or any part of the consideration thereof is for money or other valuable thing won or lost, laid, staked, or bet, at or upon any game of any kind or on any wager, are absolutely void and of no effect.

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D.

(83 Acts, ch 187, § 32) SF 92

Unnumbered paragraph 2 amended

CHAPTER 542

GRAIN DEALERS

542.3 License required — financial responsibility.

1. A person shall not engage in the business of a grain dealer in this state without having obtained a license issued by the commission.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the grain dealer purchases any grain by credit-sale contract, or if the value of grain purchased by the grain dealer from producers during the grain dealer's previous fiscal year exceeds five hundred thousand dollars. Any other grain dealer may elect to be licensed as a class 1 grain dealer.

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed a limit of five hundred thousand dollars in value shall file within thirty days of the date the limit is reached a complete application for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

3. An application for a license to engage in business as a grain dealer shall be filed with the commission and shall be in a form prescribed by the commission. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which records are maintained for transactions of the grain dealer. The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a written request filed with the commission, the commission or a designated employee may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least fifty thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than twenty-five thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The grain dealer may elect, however, to submit a financial statement satisfying the requirements of subsection 5, paragraph "b," in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected twice during each twelve-month period in the manner provided in section 542.9.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise permitted or required under this chapter.

5. In order to receive and retain a class 2 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least twenty-five thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than ten thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise permitted or required under this chapter.

6. The commission shall adopt rules relating to the form and time of filing of financial statements. The commission may require additional information or verification with respect to the financial resources of the applicant and the applicant's ability to pay producers for grain purchased from them.

7. a. When the net worth or current ratio of a licensee in good standing is less than that required by this section, the grain dealer shall correct the deficiency or file the necessary additional bond within thirty days of written notice by the commission. Unless the deficiency is corrected or the additional bond filed within thirty days, the grain dealer license shall be suspended.

b. If the commission finds that the welfare of grain producers requires emergency action, and incorporates a finding to that effect in its order, immediate suspension of the license may be ordered notwithstanding the thirty-day period otherwise allowed by paragraph "a" of this subsection.

(83 Acts, ch 54, § 1) SF 402

Subsection 2, paragraph b amended

(83 Acts, ch 175, § 1 and 2) SF 544

Subsection 2, paragraph a amended

Subsection 2, paragraph b as amended by SF 402 amended

(83 Acts, ch 18, § 1) SF 172

Subsection 3 amended

(Section 542.6 is printed twice — first, in italics as it will be effective until July 1, 1984; second, in roman type as it will be effective after that date; see 81 Acts, ch 180, § 32, and 83 Acts, ch 175, § 3, 4.)

542.6 Fees. *The commission shall collect the following fees, for deposit in the general fund:*

1. *For the issuance or renewal of a license, two hundred dollars per year for a class 1 license, and eighty-five dollars per year for a class 2 license. The commission shall prorate the annual fee on a monthly basis for licenses issued for less than a full year.*

2. *For the inspection of a class 1 grain dealer, one hundred fifty dollars, but if the class 1 grain dealer is subject to a second inspection during any twelve-month period pursuant to section 542.3, subsection 4, paragraph "b," the fee for the second inspection shall be seventy-five dollars; and for the inspection of a class 2 grain dealer, sixty-five dollars.*

(As effective July 1, 1984)

542.6 Fees. The commission shall collect fees as follows:

1. For the issuance of a license, twenty-five dollars per year or fraction of a year.
2. For renewal of license, twenty-five dollars per year.
3. All fees collected by the commission under this chapter shall be deposited in the general fund of the state.

(83 Acts, ch 18, § 2) SF 172

Subsections 3 and 4 struck and following subsection renumbered

(83 Acts, ch 175, § 3, 4) SF 544

Effective date for return to original fee schedule extended to July 1, 1984

See Code editor's note at the end of this Supplement

542.7 Posting of license. The grain dealer's license shall be posted in a conspicuous location in the place of business. A grain dealer's license is not transferable.

(83 Acts, ch 18, § 3) SF 172

Amended

542.16 Confidentiality of records. Notwithstanding chapter 68A, all financial statements of grain dealers under this chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 543.
3. When required by subpoena or court order.
4. Disclosure to law enforcement agencies in regard to the detection and prosecution of public offenses.
5. When released to a bonding company approved by the commission, or released to the United States department of agriculture or any of its divisions.
6. Where released at the request of the Iowa board of accountancy for licensee review and discipline in accordance with chapters 116 and 258A and subject to the confidentiality requirements of section 258A.6.

(83 Acts, ch 101, § 1) SF 401

NEW subsection 6

CHAPTER 543

BONDED WAREHOUSES FOR AGRICULTURAL PRODUCTS

543.24 Confidentiality of records. Notwithstanding the provisions of chapter 68A, all financial statements of warehousemen under this chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 542.
3. When required by subpoena or other court orders.
4. Disclosure to law enforcement agencies in regards to the detection and prosecution of public offenses.
5. Where released to a bonding company approved by the commission or to the United States department of agriculture or any of their divisions.
6. Where released at the request of the Iowa board of accountability for licensee review and discipline in accordance with chapters 116 and 258A and subject to the confidentiality requirements of section 258A.6.

(83 Acts, ch 104, § 2) SF 401

NEW subsection 6

(Section 543.33 is printed twice — first, in italics as it will be effective until July 1, 1984; second, in roman type as it will be effective after that date; see 81 Acts, ch 180, § 32, and 83 Acts, ch 175, § 3, 4)

543.33 Fees. *The commission shall charge the following fees:*

1. *For the issuance or renewal of a license, a fee determined as follows:*
 - a. *With respect to a warehouse license for the storage of bulk grain:*
 - (1) *If the total storage capacity is one hundred thousand bushels or less, a fee of thirty dollars.*
 - (2) *If the total storage capacity is greater than one hundred thousand bushels but not more than five hundred thousand bushels, a fee of fifty dollars.*
 - (3) *If the total storage capacity exceeds five hundred thousand bushels, a fee of one hundred dollars.*
 - b. *With respect to a warehouse license for the storage of products other than bulk grain:*
 - (1) *For intended storage of products of a value of one hundred thousand dollars or less, a fee of thirty dollars.*
 - (2) *For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of fifty dollars.*
 - (3) *For intended storage of products of a value in excess of three hundred thousand dollars, a fee of one hundred dollars.*
2. *For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars.*
3. *For each amendment of a license, a fee of ten dollars.*
4. *For each amendment of a tariff, a fee of ten dollars.*
5. *For the cost of maintaining an employee of the commission at a warehouse to supervise the correction of a deficiency, a fee of one hundred fifty dollars per day.*

All fees received by the commission shall be paid to the treasurer of state for deposit in the state general fund. License fees for new licenses shall be prorated by the commission on a monthly basis.

This section supersedes section 543.33, commencing on July 1, 1981, and until July 1, 1984.

(As effective July 1, 1984)

543.33 Fees. The commission shall charge, assess, and cause to be collected fees as follows:

1. For each examination or inspection of a warehouse when such examination or inspection is made in connection with the commission's consideration of an application for a license to operate a warehouse, ten dollars.

2. For each examination or inspection of a licensed warehouse which has been structurally changed since issuance of the original license when such examination or inspection is made in connection with the commission's consideration of an application for an amended license, ten dollars.

3. For the renewal or extension of each license, twenty-four dollars per station.

4. For the issuance of a license, two dollars for each month or fraction thereof of the period of time for which such license is issued per station.

5. For the cost of maintaining an employee at a licensed warehouse to supervise the correction of a deficiency, fifty dollars per day.

All such fees shall be paid over to the treasurer of state as miscellaneous receipts.

(83 Acts, ch 175, § 3, 4) SF 544

Effective date for return to original fee schedule extended to July 1, 1984

CHAPTER 545

IOWA UNIFORM LIMITED PARTNERSHIP ACT

545.102 Name. The name of each limited partnership as set forth in its certificate of limited partnership:

1. Shall contain the words "limited partnership" or the abbreviation "L.P."

2. Shall not contain the name of a limited partner unless either or both of the following apply:

a. That name is also the name of a general partner or the corporate name of a corporate general partner.

b. The business of the limited partnership had been carried on under that name before admission of that limited partner.

3. Shall not contain any word or phrase indicating or implying that the limited partnership is organized other than for a purpose stated in its certificate of limited partnership.

4. Shall not be the same as or deceptively similar to the name of a corporation or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation or foreign limited partnership in this state or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, without the written consent of the corporation or limited partnership which consent shall be filed with the secretary of state and provided the name is not identical.

5. Shall not contain either the word "corporation" or the word "incorporated" or an abbreviation of either.

(83 Acts, ch 144, § 9, 12) SF 435

Transition provisions for limited partnerships existing prior to July 1, 1982; amendments to be filed; effect on liability; see 83 Acts, ch 144, § 12 (SF 435)

Subsection 1 amended

545.1105 Fees. The secretary of state shall charge the fee specified for filing the following:

1. Certificates of limited partnership: one hundred dollars.

2. Applications for registration of foreign limited partnerships and also issuance of a certificate of registration to transact business in this state: one hundred dollars.

3. Amendments to certificates of limited partnerships or to applications for registration of foreign limited partnerships: twenty dollars.

4. Cancellations of certificates of limited partnerships or of registration of foreign limited partnerships: twenty dollars.
 5. A consent required to be filed under this chapter: twenty dollars.
 6. An application to reserve a limited partnership name, ten dollars.
 7. For furnishing a certified copy of any document, instrument, or paper relating to a limited partnership, one dollar per page and five dollars for the certificate and affixing the seal thereto; and for furnishing an uncertified copy, one dollar per page.
- (83 Acts, ch 144, § 10) SF 435
NEW subsections 6 and 7

545.1106 Certificates filed with the county recorder. After July 1, 1983, county recorders shall promptly send to the secretary of state copies of all limited partnership certificates and amendments to the certificates which are in effect on that date and which were filed from July 1, 1952 to July 1, 1982.

(83 Acts, ch 144, § 11) SF 435
Amended

CHAPTER 551A

CIGARETTE SALES

551A.2 Definitions. When used in any part of this chapter, the following words, terms and phrases shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

1. "*Cigarettes*" shall mean and include any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.
2. "*Person*" shall mean and include any individual, firm, association, company, partnership, corporation, joint stock company, club agency, syndicate, or anyone engaged in the sale of cigarettes.
3. "*Wholesaler*" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business when any part of the business is the sale of cigarettes at wholesale to persons licensed under this chapter, and where at all times a stock of cigarettes is available to retailers for resale.
4. "*Retailer*" means any person who is engaged in this state in the business of selling, or offering to sell, cigarettes at retail.
5. "*Sale*" and "*sell*" shall mean and include any transfer for a consideration, exchange, barter, gift, offer for sale and distribution in any manner or by any means whatsoever.
6. "*Sell at wholesale*", "sale at wholesale", and "wholesale sales" shall mean and include any sale or offer for sale made in the course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.
7. "*Sell at retail*", "sale at retail" and "retail sales" shall mean and include any sale or offer for sale for consumption or use made in the ordinary course of trade of the seller's business.
8. "*Basic cost of cigarettes*" shall mean whichever of the two following amounts is lower: (a) the true invoice cost of cigarettes to the wholesaler or retailer, as the case may be, or (b) the lowest replacement cost of cigarettes to the wholesaler or retailer in the quantity last purchased, less, in either case, all trade discounts and customary discounts for cash, plus one-half of the full face value of any stamps which may be required by any cigarette tax act of this state.
9. a. "*Cost to wholesaler*" shall mean the basic cost of the cigarettes plus the cost of doing business by the wholesaler, as defined in this chapter.
b. The cost of doing business by the wholesaler is presumed to be three percent

of the basic cost of cigarettes in the absence of proof of a lesser or higher cost, which includes cartage to the retail outlet, plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.

10. a. "Cost to the retailer" shall mean the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in this chapter.

b. The cost of doing business by the retailer is presumed to be six percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.

c. If any retailer in connection with his purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be, in the absence of proof of a lesser or higher cost of doing business, the sum of the cost of doing business by the retailer and, to the extent that he shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as hereinabove defined in subsection 9, paragraph "b."

(83 Acts, ch 165, § 3—5) SF 543

Subsection 8, subsection 9, paragraph b, and subsection 10, paragraph b amended

CHAPTER 554

UNIFORM COMMERCIAL CODE

554.2724 Admissibility of market quotations. If the prevailing price or value of goods regularly bought and sold in an established commodity market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility. Reports are also admissible under Iowa rule of evidence 803(17).

(83 Acts, ch 37, § 2) SF 504

Amended

554.9403 What constitutes filing — duration of filing — effect of lapsed filing — duties of filing officer.

1. Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

2. Except as provided in subsection 6, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

3. A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection 2. Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the

secured party of record and complying with section 554.9405, subsection 2, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection 2 unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a statement from the files and destroy it immediately if the filing officer has retained a microfilm or other photographic record, or in other cases after one year after the lapse.

4. Except as provided in subsection 7, a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

5. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing shall be as follows:

a. Four dollars for an original financing statement if the statement is in the standard form prescribed by the secretary of state, and otherwise five dollars.

b. Four dollars for a continuation statement if the statement is in the standard form prescribed by the secretary of state, and otherwise five dollars.

6. If the debtor is a transmitting utility (section 554.9401, subsection 5), and a filed financing statement so states, or if a filed financing statement relates to a lien, pledge, or security interest incident to bonds issued under chapter 419 and the filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under section 554.9402, subsection 6, remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

7. When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to section 554.9103, subsection 5, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

(83 Acts, ch 70, § 1) HF 570

Subsection 3 amended

(83 Acts, ch 90, § 30) HF 377

Subsection 6 amended

554.9404 Termination statement.

1. If a financing statement covering consumer goods is filed on or after January 1, 1975, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims

a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with section 554.9405, subsection 2, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

2. On presentation to the filing officer of such a termination statement the filing officer must note it in the index. If the filing officer has received the termination statement in duplicate, the filing officer shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof.

3. There shall be no fee for filing a termination statement. -

(83 Acts, ch 70, § 2) HF 570

Subsection 2 amended

554.9407 Information from filing officer.

1. If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

2. Upon a verbal request of a person, the filing officer shall verbally give information concerning a presently effective financing statement. The uniform fee for responding to a verbal request is four dollars. The requesting party may request a certificate from the filing officer confirming the information given. The uniform fee for a certificate is one dollar.

3. Upon written request of any person, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any financing statement changes and if there is, giving the date and hour of filing of each such filing and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state; otherwise, five dollars. Upon request and the payment of the appropriate fee the filing officer shall furnish a certified copy of any filed financing statement or financing statement changes for a uniform fee of one dollar per page.

4. Charging no more than a reasonable estimate of cost, in his discretion the secretary of state or a county recorder may adopt one or more of the following methods of providing information concerning public filings in his office to persons with an interest in this information that is related exclusively to the purposes of this Article:

- a. Subscription daily, weekly or monthly written summaries;
- b. Granting suitable space for the preparation of written summaries and the provision of telephone service by those persons deemed by the secretary of state or a county recorder to have a legitimate interest in regular examination of the secretary of state's or the county recorder's public files; or
- c. Any other appropriate method of disseminating information.

Except with respect to willful misconduct, the state of Iowa, the secretary of state, a county, a county recorder and their employees and agents are immune from liability as a result of errors or omissions in information supplied pursuant to this subsection.

(83 Acts, ch 70, § 3, 4, 5) HF 570

NEW subsection 2 and following subsections renumbered

Subsection 3 (formerly 2) amended

Subsection 4 (formerly 3), paragraph a struck

CHAPTER 556

DISPOSITION OF UNCLAIMED PROPERTY

556.4 Deposits and refunds held by utilities. The following funds held or owing by any utility are presumed abandoned:

1. Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled to the deposit for more than two years after the termination of the services for which the deposit or advance payment was made.

2. Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest on the refund, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled to the refund for more than two years after the date it became payable in accordance with the final determination or order providing for the refund.

(83 Acts, ch 191, § 12, 26, 27) HF 184

Effective April 14, 1983

Subsections 1 and 2 amended

556.9A Unclaimed pari-mutuel wagering winnings. All unclaimed pari-mutuel wagering winnings not claimed by the person who placed the wager within sixty days of the close of the racing meet during which the wager was placed are presumed abandoned.

(83 Acts, ch 187, § 33) SF 92

NEW section

556.18 Deposit of funds.

1. Except as provided in subsection 3, all funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited by the treasurer of state in the general funds of the state. However, the treasurer shall retain in a separate trust fund an amount not exceeding twenty-five thousand dollars from which the treasurer shall make prompt payment of claims duly allowed under section 556.17. Any abandoned money or money received from the sale of abandoned property which totals twenty-five dollars or less becomes the property of the state on the date of receipt or sale as applicable and a claim filed for its recovery under section 556.19 shall not be allowed. Before making the deposit of more than twenty-five dollars, the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

2. Before making any deposit to the credit of the general funds, the state treasurer may deduct:

- a. Any costs in connection with sale of abandoned property.
 - b. Any costs of mailing and publication in connection with any abandoned property.
 - c. Reasonable service charges.
3. After July 1, 1983, the treasurer of state shall credit all funds received under section 556.4, after a proportional amount has been deducted for the trust fund under subsection 1 and any costs have been deducted under subsection 2, to the energy research and development fund created under section 93.14.

(83 Acts, ch 191, § 13, 14, 27) HF 184

Effective April 14, 1983

Property received before July 1, 1983; 83 Acts, ch 191, § 16 (HF 184)

Subsection 1 amended

NEW subsection 3

556.20 Determination of claims.

1. The state treasurer shall consider any claim filed under this chapter and may hold a hearing and receive evidence concerning it. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

2. If the claim is allowed, the state treasurer shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges.

3. A claim for recovery of abandoned money or money received from the sale of abandoned property under section 556.17 of more than twenty-five dollars shall not be allowed if it is filed after ten years from the date of receipt of the abandoned property by the treasurer of state.

4. Any abandoned property, other than money, which has an appraised value of more than twenty-five dollars but is not sold under section 556.17, shall be kept for ten years from the date of receipt by the treasurer of state. After the expiration of ten years, the treasurer of state may dispose of the abandoned property.

5. Any abandoned property, other than money, which has an appraised value of twenty-five dollars or less and is not sold or offered for sale under section 556.17, may be disposed of by the treasurer of state.

6. After abandoned property has been disposed of as provided in section 556.18 or this section, records relating to the abandoned property may be destroyed by the treasurer of state.

(83 Acts, ch 191, § 15, 27) HF 184

Effective April 14, 1983

Property received before July 1, 1983; 83 Acts, ch 191, § 16 (HF 184)

NEW subsections 3 through 6

CHAPTER 556B

ABANDONED MOTOR VEHICLES OR OTHER PROPERTY

556B.1 Removal — notice to sheriff.

1. The owner or other lawful possessor of real property may remove or cause to be removed any motor vehicle or other personal property which has been unlawfully parked or placed on that real property, and may place or cause such personal property to be placed in storage until the owner of the same pays a fair and reasonable charge for towing, storage or other expense incurred. The real property owner or possessor, or his agent, shall not be liable for damages caused to the personal property by the removal or storage unless the damage is caused willfully or by gross negligence.

2. The real property owner or possessor shall notify the sheriff of the county where the real property is located of the removal of the motor vehicle or other personal property. If the owner of the motor vehicle or other personal property can be determined, the owner shall be notified of the removal by the sheriff by certified mail, return receipt requested. If the owner cannot be identified, notice by one publication in one newspaper of general circulation in the area where the personal property was parked or placed is sufficient to meet all notice requirements under this section. If the personal property has not been reclaimed by the owner within six months after notice has been effected, it may be sold by the sheriff at public or private sale. The net proceeds after deducting the cost of the sale shall be applied to the cost of removal and storage of the property, and the remainder, if any, shall be paid to the county treasurer.

(83 Acts, ch 123, § 190, 209) HF 628

Subsection 2 amended

CHAPTER 558

CONVEYANCES

558.68 Perpetuities.

1. A nonvested interest in property is not valid unless it must vest, if at all, within twenty-one years after one or more lives in being at the creation of the interest and any relevant period of gestation.

2. a. In determining whether a nonvested interest would violate the rule against perpetuities in subsection 1, the period of the rule shall be measured by actual events rather than by possible events, in any case in which that would validate the interest. For this purpose, if an examination of the facts in existence at the time the period of the rule begins to run reveals a life or lives in being within twenty-one years after whose deaths the nonvested interest will necessarily vest, if it ever vests, that life or lives are the measuring lives for purposes of the rule against perpetuities with respect to that nonvested interest and that nonvested interest is valid under the rule.

b. If no such life or lives can be ascertained at the time the period of the rule begins to run, the measuring lives for purposes of the rule are all of the following:

(1) The creator of the nonvested interest, if the period of the rule begins to run in the creator's lifetime.

(2) Those persons alive when the period begins to run, if reasonable in number, who have been selected by the creator of the interest to measure the validity of the nonvested interest or, if none, those persons, if reasonable in number, who have a beneficial interest whether vested or nonvested in the property in which the nonvested interest exists, the grandparents of all such beneficiaries and the issue of such grandparents alive when the period of the rule begins to run, and those persons who are the potential appointees of a special power of appointment exercisable over the property in which the nonvested interests exist who are the grandparents or issue

of the grandparents of the donee of the power and alive when the period of the rule begins to run.

(3) Those other persons alive when the period of the rule begins to run, if reasonable in number, who are specifically mentioned in describing the beneficiaries of the property in which the nonvested interest exists.

(4) The donee of a general or special power of appointment if the donee is alive when the period of the rule begins to run and if the exercise of that power could affect the nonvested interest.

3. A nonvested interest that would violate the rule against perpetuities whether its period is measured by actual or by possible events shall be judicially reformed to most closely approximate the intention of the creator of the interest in order that the nonvested interest will vest, even though it may not become possessory, within the period of the rule.

4. This section is applicable to all nonvested interests created on, before, or after July 1, 1983.

(83 Acts, ch 20, § 1) SF 433

Struck and rewritten

CHAPTER 562

LANDLORD AND TENANT

562.2 Double rental value — liability. A tenant serving notice of intention to quit leased premises at a time named, and holding over after the time, and a tenant or the tenant's assignee willfully holding over after the term, and after notice to quit, shall pay double the rental value of the leased premises during the time the tenant holds over to the person entitled to the rent.

(83 Acts, ch 132, § 1) SF 325

Amended

562.4 Tenant at will — notice to terminate. A person in the possession of real estate, with the assent of the owner, is presumed to be a tenant at will until the contrary is shown, and thirty days' notice in writing must be served upon either party or a successor of the party before termination of the tenancy. However, if a rent is reserved payable at intervals of less than thirty days, the length of notice need not be greater than the interval.

(83 Acts, ch 132, § 2) SF 325

Amended

562.6 Agreement for termination. If an agreement is made fixing the time of the termination of the tenancy, whether in writing or not, the tenancy shall cease at the time agreed upon, without notice. In the case of farm tenants, except mere croppers, occupying and cultivating an acreage of forty acres or more, the tenancy shall continue beyond the agreed term for the following crop year and otherwise upon the same terms and conditions as the original lease unless written notice for termination is served upon either party or a successor of the party in the manner provided in section 562.7, whereupon the tenancy shall terminate March 1 following. However, the tenancy shall not continue because of absence of notice if there is default in the performance of the existing rental agreement.

(83 Acts, ch 132, § 3) SF 325

Amended

562.7 Notice — how and when served. Written notice shall be served upon either party or a successor of the party by using one of the following methods:

1. By delivery of the notice, on or before September 1, with acceptance of service to be signed by the party to the lease or a successor of the party, receiving the notice.
2. By serving the notice, on or before September 1, personally, or if personal

service has been tried and cannot be achieved, by publication, on the same conditions, and in the same manner as is provided for the service of original notices, except that when the notice is served by publication no affidavit is required. Service by publication is completed on the day of the last publication.

3. By mailing the notice before September 1 by certified mail. Notice served by certified mail is made and completed when the notice is enclosed in a sealed envelope, with the proper postage on the envelope, addressed to the party or a successor of the party at the last known mailing address and deposited in a mail receptacle provided by the United States postal service.

(83 Acts, ch 132, § 4) SF 325

Struck and rewritten

562.8 Termination of life estate — farm tenancy. Upon the termination of a life estate, a farm tenancy granted by the life tenant shall continue until the following March 1 except that if the life estate terminates between September 1 and the following March 1 inclusively, then the farm tenancy shall continue for that year as provided by section 562.6 and continue until the holder of the successor interest serves notice of termination of the interest in the manner provided by section 562.7. However, if the lease is binding upon the holder of the successor interest by the provision of a trust or by specific commitment of the holder of the successor interest, the lease shall terminate as provided by that provision or commitment. This section does not abrogate the common law doctrine of emblements.

(83 Acts, ch 132, § 5) SF 325

Amended

CHAPTER 562B

MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT LAW

562B.27 Remedies for abandonment — required registration.

1. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the legal owner or lienholder of the mobile home and communicate to that person that the person is liable for any costs incurred for the mobile home space, including rent and utilities due and owing. However, the person is only liable for costs incurred ninety days before the landlord's communication. After the landlord's communication, costs for which liability is incurred shall then become the responsibility of the legal owner or lienholder of the mobile home. The mobile home may not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, showing that all debts are paid in full, or an agreement reached with the legal owner and the landlord.

2. A required standardized registration form shall be filled out by each tenant, upon the rental of a mobile home space, showing the mobile home make, year, serial number and license number and also showing if the mobile home is paid for, if there is a lien on the mobile home, and if so the lienholder, and who is the legal owner of the mobile home. The registration cards or forms shall be kept on file with the landlord as long as the mobile home is on the mobile home space within the mobile home park. The tenant shall give notice to the landlord within ten days of any new lien, changes of existing lien or settlement of lien.

(83 Acts, ch 102, § 1) SF 371

Subsection 1 amended

CHAPTER 566

CEMETERIES AND MANAGEMENT THEREOF

566.16 Resolution of acceptance — interest. Before any part of the principal may be so invested or used, the county, city, board of trustees of a city to whom the management of a municipal cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the donation or bequest, and that portion of cemetery lot sales or permanent charges made against cemetery lots which is to be used for perpetual care of cemetery lots, and, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery association, or to the person having charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or lots which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of a cemetery lot.

In case there is no cemetery association then the income from said fund shall be expended under the direction of the board of supervisors in accordance with the terms of said donation or bequest, or the terms of the sale or purchase of a cemetery lot.

(83 Acts, ch 123, § 191, 209) HF 628

Unnumbered paragraph 1 amended

CHAPTER 566A

CEMETERY REGULATIONS

566A.4 Application to prior cemeteries. An organization subject to this chapter which was organized and engaged in business prior to July 4, 1953 is a perpetual care cemetery if it at all times subsequent to that date complies with the requirements of a perpetual care cemetery as set forth in section 566A.3.

(83 Acts, ch 101, § 116) SF 136

Amended

566A.6 Perpetual care cemeteries. A nonperpetual care cemetery after July 4, 1953, may become a perpetual care cemetery by placing in the perpetual care trust fund twenty-five thousand dollars or five thousand dollars per acre of all property sold, whichever is the greater, and by complying with the requirements for a perpetual care cemetery as provided in section 566A.3.

(83 Acts, ch 101, § 117) SF 136

Amended

CHAPTER 567

NONRESIDENT ALIENS — LAND OWNERSHIP

567.10 Escheat. If the court finds that the land in question has been acquired in violation of this chapter or that the land has not been converted to the purpose other than farming within five years as provided for in this chapter, the court shall declare the land escheated to the state. When escheat is decreed by the court, the clerk of court shall notify the governor that the title to the real estate is vested in the state by decree of the court. Any real estate, the title to which is acquired by the state under this chapter, shall be sold in the manner provided by law for the foreclosure of a mortgage on real estate for default of payment, the proceeds of the sale shall be used to pay court costs, and the remaining funds, if any, shall be paid to the person divested of the property but only in an amount not exceeding the actual

cost paid by the person for that property. Proceeds remaining after the payment of court costs and the payment to the person divested of the property shall become a part of the funds of the county or counties in which the land is located, in proportion to the part of the land in each county.

(83 Acts, ch 123, § 192, 209) HF 628

Amended

CHAPTER 572

MECHANIC'S LIEN

572.32 Attorney fees. In a court action to enforce a mechanic's lien, if the plaintiff furnished labor or materials directly to the defendant, the plaintiff, if successful, shall be awarded reasonable attorney fees.

(83 Acts, ch 106, § 1) SF 459

NEW section

CHAPTER 573

LABOR AND MATERIAL ON PUBLIC IMPROVEMENTS

573.7 Claims for material or labor. Any person, firm, or corporation who has, under a contract with the principal contractor or with subcontractors, performed labor, or furnished material, service, or transportation, in the construction of a public improvement, may file, with the officer, board, or commission authorized by law to let contracts for such improvement, an itemized, sworn, written statement of the claim for such labor, or material, service, or transportation.

A person furnishing only materials to a subcontractor who is furnishing only materials is not entitled to a claim against the retainage or bond under this chapter and is not an obligee or person protected under the bond pursuant to section 573.6.

(83 Acts, ch 55, § 1) SF 360

NEW unnumbered paragraph 2

CHAPTER 583

HOTELKEEPER'S LIEN

583.6 Duty of county treasurer — right of guest. The balance received by the county treasurer under section 583.5 shall be credited to the county, subject to a right of the guest, or the guest's representative, to reclaim it at any time within three years from the date of deposit with the county treasurer.

(83 Acts, ch 123, § 193, 209) HF 628

Amended

CHAPTER 586

NOTARIES PUBLIC AND ACKNOWLEDGMENTS

586.1 Specific defects legalized. The following acts and instruments are hereby legalized and declared to be as valid as though all defects and irregularities therein as set forth below had never existed; nothing in this section, however, shall affect pending litigation:

1. Official acts performed before 1970 by notaries public during the time that they held over in office without qualifying after the expiration of the preceding term, if such notaries public have since qualified.

2. Acknowledgments taken before 1970 by notaries public outside their jurisdiction.

3. Acknowledgments taken and oaths administered by mayors under section 691, Code 1897, or section 1216 of subsequent Codes to and including the Code of 1939 and section 78.2 to and including Code of 1966, in proceedings not connected with their offices.

4. Acknowledgments of deeds, mortgages, permanent school fund mortgages and contracts taken and certified before 1970 by any county auditor, deputy county auditor, or deputy clerk of the district court although such officer was not authorized to take the acknowledgments at the time they were taken.

5. Acknowledgments taken and certified as provided by the Code of 1873, which were taken and certified after September 29, 1897, and prior to April 14, 1898, by officers having authority under the Code of 1873 to take and certify acknowledgments, as though such acknowledgments were taken and certified according to the provisions of the Code of 1897, and as though the officers were authorized to take and certify acknowledgments.

6. Acknowledgments taken, certified, and recorded before 1970 in the proper counties, and which are defective only in the form of the certificate of the officer taking the acknowledgment or because made before an official not qualified to take such acknowledgment but who was qualified to take acknowledgments generally.

7. Acknowledgments taken outside the United States before 1970 by officers authorized by section 10092, Codes 1924 to 1939 and section 558.28, Code 1946 to and including the Code of 1966, to take such acknowledgments, whether or not a certificate of authenticity as provided by section 10093, Codes of 1924 to 1939 and section 558.29, Code 1946 to and including the Code of 1966, is attached to such instrument; and the certificate of acknowledgment of such officer is hereby made conclusive evidence that such officer was duly qualified to make such certificate of acknowledgment.

8. Any instrument affecting real estate executed before 1970 by an attorney in fact for the grantor where a duly executed and sufficient power of attorney was on file in the county where the land was situated, although the instrument was executed and acknowledged in the form of "A, attorney in fact for B", instead of "B, by A, his attorney in fact"; or if such instrument is duly recorded and there is no record in the county where the land is situated of a power of attorney authorizing the attorney in fact to so act.

9. Any written instrument and the recording thereof, recorded prior to 1970 in the office of the recorder of the proper county, although there is attached to the instrument a defective certificate of acknowledgment.

(83 Acts, ch 185, § 53, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Subsection 4 amended

CHAPTER 595

MARRIAGE

595.10 Who may solemnize. Marriages may be solemnized by:

1. A judge of the supreme court, court of appeals, or district court, including a district associate judge, or a judicial magistrate.

2. A person ordained or designated as a leader of the person's religious faith.

(83 Acts, ch 159, § 1) SF 553

Amended

595.11 Nonstatutory solemnization — forfeiture. Marriages solemnized, with the consent of parties, in any manner other than that prescribed in this chapter, are valid; but the parties, and all persons aiding or abetting them, shall pay to the

treasurer of state for deposit in the general fund of the state the sum of fifty dollars each; but this shall not apply to the person conducting the marriage ceremony, if within fifteen days thereafter the person makes the required return to the clerk of the district court.

(83 Acts, ch 185, § 54, 62) HF 562

Effective July 1, 1984; for law in effect until that date see Code 1983

Amended

595.12 Fee and expenses.

1. A judge or magistrate authorized to solemnize a marriage under section 595.10, subsection 1, may charge a reasonable fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours. In addition the judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. No judge or magistrate shall make any charge for solemnizing a marriage during regular judicial working hours. The supreme court shall adopt rules prescribing the maximum fee and expenses that the judge or magistrate may charge.

2. A minister authorized to solemnize a marriage under section 595.10, subsection 2, may charge a reasonable fee for each marriage solemnization and making return in an amount agreed to by the parties.

(83 Acts, ch 151, § 1) SF 10

Struck and rewritten

CHAPTER 598

DISSOLUTION OF MARRIAGE

598.12 Attorney for minor child.

1. The court may appoint an attorney to represent the interests of the minor child or children of the parties. The attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify before the court on matters pertinent to the interests of the children.

2. The court may require that the department of human services or an appropriate agency make an investigation of both parties regarding the home conditions, parenting capabilities, and other matters pertinent to the best interests of the child or children in a dispute concerning custody of the child or children. The investigation report completed by the department of human services or an appropriate agency shall be submitted to the court and available to both parties. The investigation report completed by the department of human services or an appropriate agency shall be a part of the record unless otherwise ordered by the court.

3. The court shall enter an order in favor of the attorney, the department of human services, or an appropriate agency for fees and disbursements, which amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent in which event the fees shall be borne by the county.

(83 Acts, ch 96, § 157, 159) SF 464

Subsections 2 and 3 amended

598.16 Conciliation. A majority of the judges in any judicial district, with the co-operation of any county board of social welfare in such district, may establish a domestic relations division of the district court of the county where such board is located. Said division shall offer counseling and related services to persons before such court.

Upon the application of the petitioner in the petition or by the respondent in the responsive pleading thereto or, within twenty days of appointment, of an attorney appointed under section 598.12, the court shall require the parties to participate in

conciliation efforts for a period of sixty days from the issuance of an order setting forth the conciliation procedure and the conciliator.

At any time upon its own motion or upon the application of a party the court may require the parties to participate in conciliation efforts for sixty days or less following the issuance of such an order.

Every order for conciliation shall require the conciliator to file a written report by a date certain which shall state the conciliation procedures undertaken and such other matters as may have been required by the court. The report shall be a part of the record unless otherwise ordered by the court. Such conciliation procedure may include, but is not limited to, referrals to the domestic relations division of the court, if established, public or private marriage counselors, family service agencies, community health centers, physicians and clergymen.

The costs of conciliation procedures shall be paid in full or in part by the parties and taxed as court costs; however, if the court determines that the parties will be unable to pay the costs without prejudicing their financial ability to provide themselves and any minor children with economic necessities, the costs may be paid in full or in part by the county.

Persons providing counseling and other services pursuant to this section are not court employees, but are subject to court supervision.

(83 Acts, ch 123, § 194, 209) HF 628

Unnumbered paragraph 5 amended

(83 Acts, ch 186, § 10110, 10201) SF 495

NEW unnumbered paragraph 6

598.21 Orders for disposition and support.

1. Upon every judgment of annulment, dissolution or separate maintenance the court shall divide the property of the parties and transfer the title of the property accordingly. The court may protect and promote the best interests of children of the parties by setting aside a portion of the property of the parties in a separate fund or conservatorship for the support, maintenance, education and general welfare of the minor children. The court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering all of the following:

- a. The length of the marriage.
- b. The property brought to the marriage by each party.
- c. The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.
- d. The age and physical and emotional health of the parties.
- e. The contribution by one party to the education, training or increased earning power of the other.
- f. The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.
- g. The desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having custody of the children, or if the parties have joint legal custody, to the party having physical care of the children.
- h. The amount and duration of an order granting support payments to either party pursuant to subsection 3 and whether the property division should be in lieu of such payments.
- i. Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.
- j. The tax consequences to each party.
- k. Any written agreement made by the parties concerning property distribution.
- l. The provisions of an antenuptial agreement.

- m.* Other factors the court may determine to be relevant in an individual case.
2. Property inherited by either party or gifts received by either party prior to or during the course of the marriage is the property of that party and is not subject to a property division under this section except upon a finding that refusal to divide the property is inequitable to the other party or to the children of the marriage.
3. Upon every judgment of annulment, dissolution or separate maintenance, the court may grant an order requiring support payments to either party for a limited or indefinite length of time after considering all of the following:
- The length of the marriage.
 - The age and physical and emotional health of the parties.
 - The distribution of property made pursuant to subsection 1.
 - The educational level of each party at the time of marriage and at the time the action is commenced.
 - The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.
 - The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.
 - The tax consequences to each party.
 - Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.
 - The provisions of an antenuptial agreement.
 - Other factors the court may determine to be relevant in an individual case.
4. Upon every judgment of annulment, dissolution or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for support of a child. Consideration shall be given to the child's need for close contact with both parents and recognition of joint parental responsibility for the welfare of a minor child. In any order requiring payments for support of a minor child the court shall consider the following:
- The financial resources of the child.
 - The financial resources of both parents.
 - The standard of living the child would have enjoyed had there not been an annulment, dissolution or separate maintenance.
 - The desirability that the party awarded either sole custody or, in the case of joint custody, physical care remain in the home as a full-time parent.
 - The cost of day care if the party awarded either sole custody or, in the case of joint custody, physical care works outside the home, or the value of the child care services performed by the party if the party remains in the home.
 - The physical and emotional health needs of the child.
 - The child's educational needs.
 - The tax consequences to each party.
 - Other factors the court may determine to be relevant in an individual case.
5. The court may protect and promote the best interests of a minor child by setting aside a portion of the child support which either party is ordered to pay in a separate fund or conservatorship for the support, education and welfare of the child.
6. The court may provide for joint custody of the children by the parties pursuant to section 598.41. All orders relating to custody of a child are subject to chapter 598A.
7. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made.
8. The court may subsequently modify orders made under this section when

there is a substantial change in circumstances. The court contemplating a change in child support because of alleged change in circumstances shall consider each parent's earning capacity, economic circumstances and cost of living. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder and the county auditor of the county in which the real estate is located. Any fees assessed shall be included as part of the court costs, however, the certificates shall be recorded whether the costs are paid or not.

(83 Acts, ch 101, § 118) SF 136

Subsection 1, paragraph h amended

598.34 Recipients of public assistance — assignment of support payments. A person entitled to periodic support payments pursuant to an order or judgment entered in an action for dissolution of marriage, who is also a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of human services. The department shall immediately notify the clerk of court by mail when a person entitled to support payments has been determined to be eligible for public assistance. Upon notification by the department that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. The clerk of court shall forward support payments received pursuant to section 598.22, to which the department is entitled, to the department, which may secure support payments in default through proceedings provided for in chapter 252A or section 598.24.

The clerk shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when the parties are receiving public assistance.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

CHAPTER 598A

UNIFORM CHILD-CUSTODY JURISDICTION

598A.3 Jurisdiction.

1. A court of this state which is competent to decide child custody matters has jurisdiction to make a custody determination by initial or modification decree if:

a. This state is the home state of the child at the time of commencement of the proceeding, or had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of removal or retention by a person claiming custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

b. It is in the best interest of the child that a court of this state assume jurisdiction because the child and the child's parents, or the child and at least one contestant, have a significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

c. The child is physically present in this state, and the child has been abandoned or it is necessary in an emergency to protect the child because the child has been

subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

d. It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph "a", "b", or "c", or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

2. Except under paragraphs "c" and "d" of subsection 1, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a custody determination.

3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine custody.

(83 Acts, ch 101, § 119, 120) SF 136

Subsection 1, unnumbered paragraph 1, and subsection 2 amended

CHAPTER 599

MINORS

599.6 Donation of blood by minors. A person who is seventeen years of age or older may consent to donate blood in a voluntary and noncompensatory blood program without the permission of a parent or guardian. The consent is not subject to later disaffirmance because of minority.

(83 Acts, ch 13, § 1) HF 53

NEW section

CHAPTER 600

ADOPTION

600.8 Placement investigations and reports.

1. *a.* A preplacement investigation shall be directed to and a report of this investigation shall answer the following:

(1) Whether the home of the prospective adoption petitioner is a suitable one for the placement of a minor person to be adopted.

(2) How the prospective adoption petitioner's emotional maturity, finances, health, relationships, and any other relevant factor may affect the petitioner's ability to accept, care, and provide a minor person to be adopted with an adequate environment as that person matures.

b. A postplacement investigation and a report of this investigation shall:

(1) Verify the allegations of the adoption petition and its attachments and of the report of expenditures required under section 600.9.

(2) Evaluate the progress of the placement of the minor person to be adopted.

(3) Determine whether adoption by the adoption petitioner may be in the best interests of the minor person to be adopted.

c. A background information investigation and a report of this investigation shall not disclose the identity of the natural parents of the minor person to be adopted and shall answer the following:

(1) What is the complete family medical history of the person to be adopted, including any known genetic, metabolic, or familial disorders.

(2) What is the complete medical and developmental history of the person to be adopted.

2. *a.* A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any agency or independent placement of

a minor person in the petitioner's home in anticipation of an ensuing adoption. A report of a preplacement investigation that has approved a prospective adoption petitioner for a placement shall not authorize placement of a minor person with that petitioner after one year from the date of the report's issuance. However, if the prospective adoption petitioner is a relative within the fourth degree of consanguinity who has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the court or may be waived as provided in subsection 12.

b. If the person making the investigation does not approve a prospective adoption petitioner under paragraph "a" of this subsection, the person investigated may appeal the disapproval as a contested case to the commissioner of human services. Judicial review of any adverse decision by the commissioner may be sought pursuant to chapter 17A.

3. The department, an agency or an investigator shall conduct all investigations and reports required under subsection 2 of this section.

4. A postplacement investigation and a background information investigation and the reports of these investigations shall be completed and the reports filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the court shall immediately appoint the department, an agency, or an investigator to conduct and complete the postplacement and background information investigations and reports. In addition to filing the background information report with the court prior to the holding of the adoption hearing, the department, agency, or investigator appointed to conduct the background information investigation shall complete the background information investigation and report and furnish a copy to the adoption petitioner within thirty days after the filing of the adoption petition. Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully co-operate with the conducting of the background information investigation and report by disclosing any relevant background information, whether contained in sealed records or not.

5. Any person conducting an investigation under subsections 3 and 4 may, in the investigation or subsequent report, include, utilize, or rely upon any reports, studies, or examinations to the extent they are relevant.

6. Any person conducting an investigation under subsections 3 and 4 may charge a fee which does not exceed the reasonable cost of the services rendered and which is based on a sliding scale schedule relating to the investigated person's ability to pay.

7. Any investigation or report required under this section shall not apply when the person to be adopted is an adult or when the prospective adoption petitioner or adoption petitioner is a stepparent of the person to be adopted. However, in the case of a stepparent adoption, the court, upon the request of an interested person or on its own motion stating the reasons therefor of record, may order an investigation or report pursuant to this section.

8. Any person designated to make an investigation and report under this section may request an agency or state agency, within or outside this state, to conduct a portion of the investigation or the report, as may be appropriate, and to file a supplemental report of such investigation or report with the court. In the case of the adoption of a minor person by a person domiciled or residing in any other jurisdiction of the United States, any investigation or report required under this section which has been conducted pursuant to the standards of that other jurisdiction shall be recognized in this state.

9. The department may investigate, on its own initiative or on order of the court, any placement made or adoption petition filed under this chapter or chapter 600A and may report its resulting recommendation to the court.

10. The department or an agency or investigator may conduct any investigations

required for an interstate or interagency placement. Any interstate investigations or placements shall follow the procedures and regulations under the interstate compact on the placement of children. Such investigations and placements shall be in compliance with the laws of the states involved.

11. Any person who assists in or impedes the placement or adoption of a minor person in violation of the provisions of this section shall be, upon conviction, guilty of a simple misdemeanor.

12. Any investigation and report required under subsection 1 of this section may be waived by the court if the adoption petitioner is related within the fourth degree of consanguinity to the person to be adopted.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 2, paragraph b amended

600.17 Financial assistance. The department of human services shall, within the limits of funds appropriated to the department of human services and any gifts or grants received by the department for this purpose, provide financial assistance to any person who adopts a physically or mentally handicapped, older, or otherwise hard-to-place child, if the adoptive parent has the capability of providing a suitable home for the child but the need for special services or the costs of maintenance are beyond the economic resources of the adoptive parent.

1. Financial assistance shall not be provided when the special services are available free of cost to the adoptive parent or are covered by an insurance policy of the adoptive parent.

2. "Special services" means any medical, dental, therapeutic, educational, or other similar service or appliance required by an adopted child by reason of a mental or physical handicap.

(83 Acts, ch 96, § 157, 159) SF 464

Unnumbered paragraph 1 amended

600.18 Determination of assistance. Any prospective adoptive parent desiring to avail himself of financial assistance shall state this fact in his petition for adoption. The department of human services shall investigate the person petitioning for adoption and the child and shall file with the court a statement of whether the department will provide assistance as provided in sections 600.17 to 600.22, the estimated amount, extent, and duration of assistance, and any other information the court may order.

If the department of human services is unable to determine that an insurance policy will cover the costs of special services, it shall proceed as if no policy existed, for the purpose of determining eligibility to receive assistance. The department shall, to the amount of financial assistance given, be subrogated to the rights of the adoptive parent in the insurance contract.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

600.22 Rules. The department of human services shall adopt rules in accordance with the provisions of chapter 17A, which are necessary for the administration of sections 600.17 to 600.21.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 600A

TERMINATION OF PARENTAL RIGHTS

600A.2 Definitions. As used in this chapter:

1. "*Child*" means a son or daughter of a parent, whether by birth or adoption.

2. "*Parent*" means a father or mother of a child, whether by birth or adoption.

3. "*Parent-child relationship*" means the relationship between a parent and a child recognized by the law as conferring certain rights and privileges and imposing certain duties. The term extends equally to every child and every parent, regardless of the marital status of the parents of the child. The rights, duties, and privileges recognized in the parent-child relationship include those which are maintained by a guardian, custodian, and guardian ad litem.

4. "*Termination of parental rights*" means a complete severance and extinguishment of a parent-child relationship between one or both living parents and the child.

5. "*Natural parent*" means a parent who has been a biological party to the procreation of the child.

6. "*Stepparent*" means a person who is the spouse of a parent in a parent-child relationship, but who is not a parent in that parent-child relationship.

7. "*Guardian*" means a person who is not the parent of a minor child, but who has been appointed by a court or juvenile court having jurisdiction over the minor child to make important decisions which have permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the minor child or by operation of law, the rights and duties of a guardian with respect to a minor child shall be as follows:

a. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric or surgical treatment.

b. To serve as custodian, unless another person has been appointed custodian.

c. To make reasonable visitations if the guardian does not have physical possession or custody of the minor child.

d. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

8. "*Custodian*" means a stepparent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody, or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child shall be as follows:

a. To maintain or transfer to another the physical possession of that child.

b. To protect, train, and discipline that child.

c. To provide food, clothing, housing, and ordinary medical care for that child.

d. To consent to emergency medical care, including surgery.

e. To sign a release of medical information to a health professional.

All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

9. "*Guardian ad litem*" means a person appointed by a court or juvenile court having jurisdiction over the minor child to represent that child in a legal action.

10. "*Minor*" means an unmarried person who is under the age of eighteen years.

11. "*Adult*" means a person who is married or eighteen years of age or older.

12. "*Agency*" means a child-placing agency as defined in section 238.2 or the department.

13. "*Department*" means the state department of human services or its subdivisions.

14. "Court" means a district court.

15. "Juvenile court" means the juvenile court established by section 602.7101.

16. "To abandon a minor child" means to permanently relinquish or surrender, without reference to any particular person, the parental rights, duties, or privileges inherent in the parent-child relationship. The term includes both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

17. "Independent placement" means placement for purposes of adoption of a minor in the home of a proposed adoptive parent by a person who is not the proposed adoptive parent and who is not acting on behalf of the department or of a child-placing agency.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 13 amended

(83 Acts, ch 186, § 10111, 10201) SF 495

Subsection 15 amended

CHAPTER 601A

CIVIL RIGHTS COMMISSION

601A.17 Judicial review — enforcement.

1. Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, petition for judicial review may be filed in the district court in which an enforcement proceeding under subsection 2 may be brought.

For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure Act, specified by section 17A.19, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by certified mail, to the parties.

Notwithstanding the time limit provided in section 17A.19, subsection 3, a petition for judicial review of no-probable-cause decisions and other final agency actions which are not of general applicability must be filed within thirty days of the issuance of the final agency action.

2. The commission may obtain an order of court for the enforcement of commission orders in a proceeding as provided in this section. Such an enforcement proceeding shall be brought in the district court of the district in the county in which the alleged discriminatory or unfair practice which is the subject of the commission's order was committed, or in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or to take other affirmative action, resides, or transacts business.

3. Such an enforcement proceeding shall be initiated by the filing of a petition in such court and the service of a copy thereof upon the respondent. Thereupon the commission shall file with the court a transcript of the record of the hearing before it. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order enforcing, modifying, and enforcing as so modified, or setting aside the order of the commission, in whole or in part.

4. An objection that has not been urged before the commission shall not be considered by the court in an enforcement proceeding, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

5. Any party to the enforcement proceeding may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereof, providing such party shall show reasonable grounds for the failure to adduce such evidence before the commission.

6. In the enforcement proceeding the court shall determine its order on the same

basis as it would in a proceeding reviewing commission action under section 17A.19, subsection 8.

7. The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

8. The commission may appear in court by its own attorney.

9. Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed without requirement for printing.

10. If no proceeding to obtain judicial review is instituted within thirty days from the service of an order of the commission under section 601A.15, the commission may obtain an order of the court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

(83 Acts, ch 57, § 1) SF 304

Subsection 1 amended by adding NEW unnumbered paragraph 3

CHAPTER 601C

OPERATION OF FOOD SERVICE IN PUBLIC BUILDINGS

601C.2 Definitions. For the purposes of this chapter:

1. "*Public office building*" means the state capitol, all county courthouses, all city halls, and all buildings used primarily for governmental offices of the state or any county or city. It does not include public schools or buildings at institutions of the state board of regents or the state department of human services.

2. "*Food service*" includes restaurant, cafeteria, snack bar, vending machines for food and beverages, and goods and services customarily offered in connection with any of these. It does not include goods and services offered by a veteran's newsstand under section 19.16 or section 331.361, subsection 4.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1 amended

CHAPTER 601D

RIGHTS OF BLIND, PARTIALLY BLIND AND PHYSICALLY DISABLED

601D.5 Use of guide dogs. Every blind or partially blind person shall have the right to be accompanied by a guide dog, under control and especially trained for the purpose, in any of the places listed in sections 601D.3 and 601D.4 without being required to make additional payment for the guide dog. A landlord shall waive lease restrictions on the keeping of a guide dog for a blind person. The blind person is liable for damage done to the premises or facilities by a guide dog.

(83 Acts, ch 46, § 3) HF 150

Amended

CHAPTER 601F

GOVERNOR'S COMMITTEE ON EMPLOYMENT OF HANDICAPPED

601F.3 Ex officio members. The following shall serve as ex officio members of the committee:

1. The commissioner of public health.
2. The commissioner of the department of human services and any directors of his department so assigned by him.
3. The state superintendent of public instruction.

4. The director of vocational rehabilitation.
5. The director of the commission for the blind.
6. The commissioner of labor.
7. The industrial commissioner.
8. The director of the Iowa department of job service.
9. A member of the state board of vocational education designated by the governor.

(83 Acts, ch 96, § 157, 159) SF 464
Subsection 2 amended

CHAPTER 601I

SERVICE PROGRAM FOR THE DEAF

601I.7 Use of hearing dog. A deaf person has the right to be accompanied by a hearing dog, under control and especially trained at a recognized training facility to assist the deaf by responding to sound, in any place listed in sections 601D.3 and 601D.4 without being required to make additional payment for the hearing dog. A landlord shall waive lease restrictions on the keeping of dogs for a deaf person with a hearing dog. The deaf person is liable for damage done to any premise or facility by a hearing dog.

(83 Acts, ch 46, § 1) HF 150
NEW section

601I.8 Penalty for denying right. A person who denies or interferes with the right of a deaf person established by section 601I.7 is, upon conviction, guilty of a simple misdemeanor.

(83 Acts, ch 46, § 2) HF 150
NEW section

CHAPTER 601J

TRANSPORTATION PROGRAMS

601J.2 Technical assistance. The department may, at the request of a political subdivision provide the following technical transportation assistance to the political subdivision:

1. An evaluation of existing urban and rural transportation systems, including but not limited to an evaluation of rolling stock, the costs of operation including the costs of fuel, maintenance and personnel and the development of common management and operating systems and procedures.

2. An analysis of existing urban and rural services provided for transportation disadvantaged persons and the service needs of transportation disadvantaged persons, including an evaluation of specialized equipment required to meet the service needs of transportation disadvantaged persons.

The department shall establish two pilot projects to enable the department to evaluate the feasibility of a cooperative effort among public and private transportation providers, including public school transportation providers. One pilot project shall be located in an urban area and the other in a rural area. The department shall consult with all groups affected by the projects' implementation, and may offer reasonable incentives to potential participants in the pilot projects in order to encourage participation. The department shall monitor the progress of the projects and issue reports as requested by the general assembly, but at least annually.

Notwithstanding section 601J.3, unnumbered paragraph 1, for the purposes of the two pilot projects authorized by this section, the department, upon the request of a political subdivision and a public or private provider of transportation, may assist

those political subdivisions and public and private providers of transportation requesting assistance in the development of a fiscal and service plan which may be used by them to coordinate and consolidate all forms of urban and rural transportation services.

(83 Acts, ch 60, § 1) SF 202

NEW unnumbered paragraphs 2 and 3

TITLE XXX

JUDICIAL SYSTEM

Title XXX renamed; 83 Acts, ch 186, § 10202 (SF 495)

CHAPTER 602

IOWA DISTRICT COURT

Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495)
See following NEW chapter 602

CHAPTER 602

THE COURTS

Gradual implementation and transition provisions, see article 11 of
this chapter
NEW chapter

ARTICLE 1

JUDICIAL DEPARTMENT

PART 1

DEFINITIONS AND COMPOSITION

602.1101 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Book*", "*record*", or "*register*" means any mode of permanent recording, including but not limited to, card files, microfilm, microfiche, and electronic records.

2. "*Chief judge*" means the district judge selected to serve as the chief judge of the judicial district pursuant to section 602.1210.

3. "*Chief justice*" means the chief justice of the supreme court selected pursuant to section 602.4103.

4. "*Chief juvenile court officer*" means a person appointed under section 602.1217.

5. "*Court employee*" or "*employee of the judicial department*" means an officer or employee of the judicial department except a judicial officer.

6. "*Department*" means the judicial department as defined in section 602.1102.

7. "*District court administrator*" means a person appointed pursuant to section 602.1214.

8. "*Judicial officer*" means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.

9. "*Magistrate*" means a person appointed under article 6, part 4 to exercise judicial functions.

10. "*Senior judge*" means a person who qualifies as a senior judge under article 9, part 2.

11. "*State court administrator*" means the person appointed by the supreme court pursuant to section 602.1208.

(83 Acts, ch 186, § 1101, 10201, 10202) SF 495

NEW section

602.1102 Judicial department. The judicial department consists of all of the following:

1. The supreme court.
2. The court of appeals.
3. The district court.
4. The clerks of all of the courts of this state.
5. Juvenile court officers.
6. Court reporters.
7. All other court employees.

(83 Acts, ch 186, § 1102, 10201) SF 495

Gradual implementation and transition provisions; see article 11, § 602.11101—602.11114

NEW section

PART 2

ADMINISTRATION

602.1201 Supervision and administration. The supreme court has supervisory and administrative control over the department and over all judicial officers and court employees.

(83 Acts, ch 186, § 1201, 10201) SF 495

Gradual implementation and transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1202 Judicial council. A judicial council is established, consisting of the chief judges of the judicial districts, the chief judge of the court of appeals, and the chief justice who shall be the chairperson. The council shall convene not less than twice each year at times and places as ordered by the chief justice. The council shall advise the supreme court with respect to the supervision and administration of the department.

(83 Acts, ch 186, § 1202, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1203 Personnel conferences. The chief justice may order conferences of judicial officers or court employees on matters relating to the administration of justice or the affairs of the department.

(83 Acts, ch 186, § 1203, 10201) SF 495

NEW section

602.1204 Procedures for department.

1. The supreme court shall prescribe procedures for the orderly and efficient supervision and administration of the department. These procedures shall be executed by the chief justice.

2. The state court administrator may issue directives relating to the management of the department. The subject matters of these directives shall include, but need not be limited to, fiscal procedures, the judicial retirement system, and the collection and reporting of statistical and other data. The directives shall provide for an affirmative action plan which shall be based upon guidelines provided by the Iowa state civil rights commission. In addition, when establishing salaries and benefits the state court administrator shall not discriminate in the employment or pay between employees on the basis of gender by paying wages to employees at a rate less than the rate at which wages are paid to employees of the opposite gender for work of comparable worth. As used in this section "comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

3. The supreme court shall compile and publish all procedures and directives relating to the supervision and administration of the internal affairs of the department, and shall distribute a copy of the compilation and all amendments to each

operating component of the department. Copies also shall be distributed to agencies referred to in section 18.97 upon request.

4. The supreme court shall accept bids for the printing of court forms from both public and private enterprises and shall attempt to contract with both public and private enterprises for a reasonable portion of the court forms.

(83 Acts, ch 186, § 1204, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1205 Procedures for courts.

1. The supreme court shall prescribe procedures for the orderly and efficient administration of the judicial business of the courts. These procedures shall be executed by the chief justice.

2. Procedures for the district court shall provide for a court session at least once each week in each county to be fixed in advance and announced in the form of a printed schedule. However, court sessions may be at intervals other than once each week if in the opinion of the chief judge more efficient operations in the district will result. The procedures shall also provide for additional sessions for the trial of cases in each county at a frequency which will promptly dispose of the cases that are ready for trial.

(83 Acts, ch 186, § 1205, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1206 Rules for judges and attorneys.

1. The supreme court shall prescribe rules as necessary to supervise the conduct of attorneys and judicial officers. These rules shall be executed by the chief justice.

2. Supreme court rules shall be published as provided in section 14.12, subsection 7.

(83 Acts, ch 186, § 1206, 10201) SF 495

NEW section

602.1207 Report of the condition of the judicial department. The chief justice shall communicate the condition of the department by message to each general assembly, and may recommend matters the chief justice deems appropriate.

(83 Acts, ch 186, § 1207, 10201) SF 495

NEW section

602.1208 State court administrator.

1. The supreme court, by majority vote, shall appoint a state court administrator and may remove the administrator for cause.

2. The state court administrator is the principal administrative officer of the judicial department, subject to the immediate direction and supervision of the chief justice.

3. The state court administrator shall employ staff as necessary to perform the duties of the administrator, subject to the approval of the supreme court and budget limitations. The administrator shall implement the comparable worth directives issued under section 602.1204, subsection 2 in all court employment decisions.

4. All judicial officers and court employees shall comply with procedures and requests of the state court administrator with respect to information and statistical data bearing on the state of the dockets of the courts, the progress of court business, and other matters reflecting judicial business and the expenditure of moneys for the maintenance and operation of the judicial system.

(83 Acts, ch 186, § 1208, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1209 General duties of the state court administrator. The state court administrator shall:

1. Manage the judicial department.
2. Administer funds appropriated to the department.
3. Authorize the filling of vacant court-employee positions, review the qualifications of each person to be employed within the department, and assure that affirmative action goals are being met by the department. The state court administrator shall not approve the employment of a person when either the proposed terms and conditions of employment or the qualifications of the individual do not satisfy personnel policies of the department. The administrator shall implement the comparable worth directives issued under section 602.1204, subsection 2 in all court employment decisions.
4. Supervise the employees of the supreme court and court of appeals, and the clerk of the supreme court.
5. Administer the judicial retirement system as provided in article 9.
6. Collect and compile information and statistical data, and submit reports relating to judicial business and other matters relating to the department.
7. Formulate and submit recommendations for improvement of the judicial system, with reference to the structure of the department and its organization and methods of operation, the selection, compensation, number, and tenure of judicial officers and court employees, and other matters as directed by the chief justice or the supreme court.
8. Call conferences of district court administrators as necessary in the administration of the department.
9. Provide a secretary and clerical services for the board of examiners of shorthand reporters under article 3.
10. Act as executive secretary of the commission on judicial qualifications under article 2.
11. Act as custodian of the bonds and oaths of office of judicial officers and court employees.
12. Issue vouchers for the payment of per diem and expenses from funds appropriated for purposes of articles 2, 3, and 10.
13. Collect and account for fees paid to the board of examiners of shorthand reporters under article 3.
14. Collect and account for fees paid to the board of bar examiners under article 10.
15. Perform other duties as assigned by the supreme court, or the chief justice, or by law.

(83 Acts, ch 186, § 1209, 10201) SF 495

Transition provisions; see article 11, 602.11101—602.11114

NEW section

602.1210 Selection of chief judges. Not later than December 15 in each odd-numbered year the chief justice shall appoint chief judges of the judicial districts, subject to the approval of the supreme court. The chief judge of a judicial district shall be appointed from those district judges who are serving within the district. A chief judge shall serve for a two-year term and is eligible for reappointment. The supreme court, by majority vote, may remove a person from the position of chief judge. Vacancies in the office of chief judge shall be filled in the same manner. An order appointing a chief judge shall be filed with the clerk of the supreme court, who shall mail a copy to the clerk of the district court in each county in the judicial district.

(83 Acts, ch 186, § 1210, 10201) SF 495

NEW section

602.1211 Duties of chief judges.

1. In addition to judicial duties, a chief judge of a judicial district shall supervise all judicial officers and court employees serving within the district. The chief judge shall by order fix the times and places of holding court, and shall designate the respective presiding judges, supervise the performance of all administrative and judicial business of the district, allocate the workloads of district associate judges and magistrates, and conduct judicial conferences to consider, study, and plan for improvement of the administration of justice.

2. A chief judge shall not attempt to direct or influence a judicial officer in a judicial ruling or decision.

3. A chief judge may appoint from among the other district judges of the district one or more assistants to serve throughout the judicial district. A chief judge may remove a person from the position of assistant. An assistant shall have administrative duties as specified in court rules or in the order of appointment. An appointment or removal shall be made by judicial order and shall be filed with the clerk of the district court in each county in the judicial district.

(83 Acts, ch 186, § 1211, 10201) SF 495

NEW section

602.1212 Judges for public utility rate cases.

1. The supreme court shall designate at least one district judge in each judicial district in the state who shall be subject to assignment by the chief justice to preside as necessary in this state in judicial review proceedings referred to in section 476.13, subsection 1. Designations shall be made on the basis of qualifications and experience, and shall be for the purpose of developing a pool of district judges who will have the knowledge and experience needed to expedite judicial review proceedings in those cases.

2. Upon receipt of notice from a district court clerk under section 476.13, subsection 2, the chief justice of the supreme court shall assign one of the district judges selected under subsection 1 to preside at the judicial review proceeding under section 476.13.

(83 Acts, ch 127, § 43) HF 312

See Code editor's note at the end of this Supplement

NEW section

602.1213 District judicial conferences.

1. The district judges within a judicial district may convene as an administrative body as necessary to:

a. Prescribe local court procedures, subject to the approval of the supreme court.
b. Advise the chief judge respecting supervision and administration of the judicial district.

c. Exercise other duties, as established by law or by the supreme court.

2. A district judicial conference shall act by majority vote of its members.

(83 Acts, ch 186, § 1212, 10201) SF 495

NEW section

602.1214 District court administrator.

1. The chief judge of a judicial district shall appoint a district court administrator and may remove the administrator for cause.

2. The district court administrator shall assist the chief judge in the supervision and administration of the judicial district.

3. The district court administrator shall assist the state court administrator in the implementation of policies of the department and in the performance of the duties of the state court administrator.

4. The district court administrator shall employ and supervise all employees of the district court except court reporters, clerks of the district court, employees of the clerks of the district court, juvenile probation officers, and employees of juvenile probation officers.

5. The district court administrator shall comply with policies of the department and the judicial district.

6. The supreme court shall establish the qualifications for appointment as a district court administrator.

(83 Acts, ch 186, § 1213, 10201) SF 495

NEW section

602.1215 Clerk of the district court.

1. The district judges of each judicial election district shall by majority vote appoint persons to serve as clerks of the district court, one for each county within the judicial election district. A person does not qualify for appointment to the office of clerk of the district court unless the person is at the time of application a resident of the county in which the vacancy exists. A clerk of the district court may be removed from office for cause by a majority vote of the district judges of the judicial election district. Before removal, the clerk of the district court shall be notified of the cause for removal.

2. The clerk of the district court has the duties specified in article 8, and other duties as prescribed by law or by the supreme court.

3. The clerk of the district court shall assist the state court administrator and the district court administrator in carrying out the rules, directives, and procedures of the department and the judicial district.

4. The clerk of the district court shall comply with rules, directives, and procedures of the department and the judicial district.

(83 Acts, ch 186, § 1214, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1216 Retention of clerks of the district court. A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition of ten percent of all eligible and registered electors in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

(83 Acts, ch 186, § 1215, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1217 Chief juvenile court officer.

1. The district judges within a judicial district, by majority vote, shall appoint a chief juvenile court officer and may remove the officer for cause.

2. The chief juvenile court officer is subject to the immediate supervision and direction of the chief judge of the judicial district.

3. The chief juvenile court officer, in addition to performing the duties of a juvenile court officer, shall supervise juvenile court officers and administer juvenile court services within the judicial district in accordance with law and with the rules, directives, and procedures of the department and the judicial district.

4. The chief juvenile court officer shall assist the state court administrator and the district court administrator in implementing rules, directives, and procedures of the department and the judicial district.

5. A chief juvenile court officer shall have other duties as prescribed by the supreme court or by the chief judge of the judicial district.

(83 Acts, ch 186, § 1216, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1218 Removal for cause. Inefficiency, insubordination, incompetence, failure to perform assigned duties, inadequacy in performance of assigned duties, narcotics addiction, dishonesty, unrehabilitated alcoholism, negligence, conduct which adversely affects the performance of the individual or of the department, conduct unbecoming a public employee, misconduct, or any other just and good cause constitutes cause for removal.

(83 Acts, ch 186, § 1217, 10201) SF 495

NEW section

PART 3

BUDGETING AND FUNDING

602.1301 Fiscal procedures.

1. The supreme court shall prepare an annual operating budget for the department, and shall submit a budget request to the general assembly for the fiscal period for which the general assembly is appropriating funds.

2. The chief justice shall include the department budget recommendations as part of the message on the condition of the department that is submitted under section 602.1207.

3. The state court administrator shall prescribe the procedures to be used by the operating components of the department with respect to the following:

- a. The preparation, submission, review, and revision of budget requests.
- b. The allocation and disbursement of funds appropriated to the department.
- c. The purchase of forms, supplies, equipment, and other property.
- d. Other matters relating to fiscal administration.

4. The state court administrator shall prescribe practices and procedures for the accounting and internal auditing of funds of the department, including uniform practices and procedures to be used by judicial officers and court employees with respect to all funds, regardless of source.

(83 Acts, ch 186, § 1301, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1302 State funding.

1. Except as otherwise provided by section 602.1303 or other applicable law, the expenses of operating and maintaining the department shall be paid out of the general fund of the state from funds appropriated by the general assembly for the department. State funding shall be phased in as provided in section 602.11101.

2. The state shall provide suitable office space for a public defender if established for a county.

3. The supreme court may accept federal funds to be used in the operation of the department, but shall not expend any of these funds except pursuant to appropriation of the funds by the general assembly.

(83 Acts, ch 186, § 1302, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

Local court property devoted for use of judicial department; § 602.11107

Judicial department appropriations for court reorganization; 83 Acts, ch 204, § 1 (SF 549)

NEW section

602.1303 Local funding.

1. A county or city shall provide the district court for the county with physical facilities, including heat, water, electricity, maintenance, and custodial services, as follows:

a. A county shall provide courtrooms, offices, and other physical facilities which in the judgment of the board of supervisors are suitable for the district court, and for judicial officers of the district court, the clerk of the district court, juvenile court officers, and other court employees.

b. If court is held in a city other than the county seat, the city shall provide

courtrooms and other physical facilities which in the judgment of the city council are suitable.

2. A county shall pay the expenses of the members of the county magistrate appointing commission as provided in section 602.6501.

3. A county shall pay the compensation and expenses of the jury commission and assistants under chapter 608.

4. A county shall provide the district court with bailiff and other law enforcement services upon the request of a judicial officer of the district court.

5. A county shall pay the costs incurred in connection with the administration of juvenile justice under section 232.141.

6. A county shall pay the costs and expenses incurred in connection with grand juries.

7. A county or city shall pay the costs of its witnesses, depositions, and transcripts and the court fees and costs provided by law in criminal actions prosecuted by that county or city.

8. A county shall pay the fees and expenses allowed under sections 815.2 and 815.3, and shall pay the fees and expenses allowed under sections 815.5 and 815.6 with respect to witnesses for the prosecution.

(83 Acts, ch 186, § 1303, 10201) SF 495

Transition provisions for funding; see article 11, § 602.11101—602.11114

Certain bailiffs employed as court attendants; § 602.11113

NEW section

602.1304 Revenues. Except as provided in article 8, all fees and other revenues collected by judicial officers and court employees shall be paid into the general fund of the state.

(83 Acts, ch 186, § 1304, 10201) SF 495

NEW section

602.1305 Distribution of revenues of the district court. All fees, costs, forfeited bail, and other court revenues collected by the district court shall be distributed as provided in article 8.

(83 Acts, ch 186, § 1305, 10201) SF 495

NEW section

PART 4

PERSONNEL

602.1401 Personnel system.

1. The supreme court shall establish, and may amend, a personnel system and a pay plan for court employees. The personnel system shall include a designation by position title, classification, and function of each position or class of positions within the department. Reasonable efforts shall be made to accommodate the individual staffing and management practices of the respective clerks of the district court. The personnel system, in the employment of court employees, shall not discriminate on the basis of race, creed, color, sex, national origin, religion, physical disability, or political party preference. The supreme court, in establishing the personnel system, shall implement the comparable worth directives issued by the state court administrator under section 602.1204, subsection 2.

2. The supreme court shall compile and publish all documents that establish the personnel system, and shall distribute a copy of the compilation and all amendments to each operating component of the department.

3. The state court administrator is the public employer of court employees for purposes of chapter 20, relating to public employment relations.

For purposes of chapter 20, certifications of employee organizations, which on July 1, 1983 represent employees who become court employees as a result of this Act,* shall remain in effect when the employees become court employees and thereafter, unless a public employee files a petition under section 20.14, subsection 3, and the

employee organization is decertified in an election held under section 20.15. However, collective bargaining negotiations shall be conducted by judicial district and the certified employee organizations which engage in bargaining shall negotiate by judicial district. The public employment relations board shall adopt rules pursuant to chapter 17A to implement this subsection.

4. The supreme court may establish reasonable classes of employees and a pay plan for the classes of employees as necessary to accomplish the purposes of the personnel system.

(83 Acts, ch 186, § 1401, 10201) SF 495

*Transition provisions, collective bargaining and employee rights; see article 11, § 602.11108, 602.11102—602.11106
NEW section

602.1402 Personnel control. The employment of court employees within an operating component of the judicial department is subject to prior authorization by the supreme court, and to approval by the state court administrator under section 602.1209.

(83 Acts, ch 186, § 1402, 10201) SF 495

NEW section

PART 5

COMPENSATION OF JUDICIAL OFFICERS AND COURT EMPLOYEES

602.1501 Judicial salaries.

1. The chief justice and each justice of the supreme court shall receive the salary set by the general assembly.

2. The chief judge and each judge of the court of appeals shall receive the salary set by the general assembly.

3. The chief judge of each judicial district and each district judge shall receive the salary set by the general assembly.

4. District associate judges shall receive the salary set by the general assembly. However, an alternate district associate judge whose appointment is authorized under section 602.6303 shall receive a salary for each day of actual duty equal to a district associate judge's daily salary.

5. Magistrates shall receive the salary set by the general assembly, subject to section 602.6402.

(83 Acts, ch 186, § 1501, 10201) SF 495

NEW section

602.1502 State court administration salaries.

1. The supreme court shall set the compensation of the state court administrator, deputy administrator, and research director within the funds appropriated by the general assembly.

2. The state court administrator, with the approval of the supreme court, shall set the salaries of assistants and employees of the office of the state court administrator within the funds appropriated by the general assembly.

(83 Acts, ch 186, § 1502, 10201) SF 495

NEW section

602.1503 Appellate court employee salaries.

1. The supreme court shall set the salary of the clerk of the supreme court within the funds appropriated by the general assembly.

2. The clerk of the supreme court, subject to the approval of the supreme court, shall set the salaries of deputies and employees in the offices of the clerk of the supreme court and the clerk of the court of appeals.

3. The state court administrator, subject to the approval of the supreme court, shall set the salaries of law clerks, secretaries, and other employees of the supreme court or the court of appeals.

(83 Acts, ch 186, § 1503, 10201) SF 495

NEW section

602.1504 District court administration salaries.

1. The chief judge of a judicial district shall set the salary of the district court administrator within the funds appropriated by the general assembly and in accordance with the pay plan established under section 602.1401.

2. The salaries of law clerks, secretaries, and other employees under the supervision of the district court administrator shall be set by the district court administrator, subject to the approval of the chief judge of the judicial district.

(83 Acts, ch 186, § 1504, 10201) SF 495

NEW section

602.1505 District court clerk offices — salary limitation.

1. The chief judge of each judicial district shall set the salaries of the clerks of the district court within the judicial district. A clerk of the district court shall not receive a salary in excess of the highest salary paid to the county auditor, the county treasurer, or the county recorder in the county in which the clerk serves.

2. The annual salary of a deputy to a clerk of the district court shall not exceed eighty percent of the annual salary of the clerk of the district court.

3. A clerk of the district court shall set the salaries of the deputy clerks and employees of that office, subject to subsection 2 and to the approval of the chief judge of the judicial district.

(83 Acts, ch 186, § 1505, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1506 Juvenile court officers and staff.

1. The chief judge of the judicial district shall set the salaries for the chief juvenile court officer and other juvenile court officers employed in the district.

2. The chief juvenile court officer shall set the salaries of secretarial, clerical, and other staff employed by the juvenile court in the judicial district, subject to the approval of the chief judge of the judicial district.

(83 Acts, ch 186, § 1506, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1507 Court reporter salaries.

1. The supreme court shall set the salary of each full-time court reporter of the district court based on the reporter's experience within the funds appropriated by the general assembly. A salary increase under this subsection is effective on the employment anniversary of the court reporter.

2. Each district judge and district associate judge, upon appointing a full-time court reporter, shall certify the name and address of the reporter and the date upon which the reporter's term of service begins to the state court administrator.

3. Court reporters who are employed on an emergency basis in the district court shall be paid not more than their usual and customary fees, while employed by the court. Payments shall be made at least once each month.

4. Court reporters shall be paid compensation for transcribing their notes as provided in section 602.3202, but shall not work on outside depositions during the hours for which they are compensated as a court employee.

(83 Acts, ch 186, § 1507, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1508 Compensation of referees. Referees and other persons referred to in section 602.6602 shall receive a salary or other compensation as set by the supreme court.

(83 Acts, ch 186, § 1508, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1509 Expenses.

1. When a judicial officer, court employee, or other person providing professional services to the courts is required to travel in the discharge of official duties, the person shall be paid actual and necessary expenses incurred in the performance of duties, not to exceed a maximum amount established by the supreme court. The supreme court shall prescribe procedures to establish the maximum amount, terms, and conditions for reimbursement of the expenses.

2. The supreme court may authorize juvenile court officers to receive a monthly allowance for use of an automobile in the discharge of official duties in lieu of receiving an expense reimbursement based on mileage.

(83 Acts, ch 186, § 1509, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1510 Bond expense. The cost of a bond that is required of a judicial officer or court employee in the discharge of duties shall be paid by the department.

(83 Acts, ch 186, § 1510, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1511 Board of examiners for shorthand reporters. Members of the board of examiners for certified shorthand reporters appointed under article 3 shall receive actual and necessary expenses pursuant to section 602.1509 and per diem compensation for each day actually engaged in the discharge of duties.

(83 Acts, ch 186, § 1511, 10201) SF 495

NEW section

602.1512 Commission on judicial qualifications. The members of the commission on judicial qualifications established under section 602.2102, other than the judicial member, shall receive per diem compensation for each day that they are actually engaged in the performance of duties. All of the members shall be reimbursed for actual and necessary expenses pursuant to section 602.1509.

(83 Acts, ch 186, § 1512, 10201) SF 495

NEW section

602.1513 Per diem compensation. The supreme court shall set the per diem compensation under sections 602.1511 and 602.1512 at forty dollars per day.

(83 Acts, ch 186, § 1513, 10201) SF 495

NEW section

PART 6

GENERAL PROVISIONS

602.1601 Judicial proceedings public. All judicial proceedings shall be public, unless otherwise specially provided by statute or agreed to by the parties.

(83 Acts, ch 186, § 1601, 10201) SF 495

NEW section

602.1602 Sunday — permissible acts. A court shall not be opened on Sunday and judicial business shall not be transacted on Sunday, except to:

1. Give instructions to a jury then deliberating on its verdict.
2. Receive a verdict or discharge a jury.
3. Exercise the powers of a magistrate in a criminal proceeding.
4. Perform other acts as provided by law.

(83 Acts, ch 186, § 1602, 10201) SF 495

NEW section

602.1603 Judge to be attorney. A person is not eligible for, and shall not hold the office of supreme court justice, court of appeals judge, district judge, or district associate judge unless admitted to the practice of law in this state.

(83 Acts, ch 186, § 1603, 10201) SF 495

NEW section

602.1604 Judges shall not practice law. While holding office, a supreme court justice, court of appeals judge, district judge, or district associate judge shall not practice as an attorney or counselor or give advice in relation to any action pending or about to be brought in any of the courts of the state. A person whose appointment as an alternate district associate judge is authorized under section 602.6303 may practice law except when actually serving as a district associate judge.

(83 Acts, ch 186, § 1604, 10201) SF 495

NEW section

602.1605 Special conditions for magistrates.

1. A magistrate shall not accept any compensation, fee, or reward from or on behalf of anyone for services rendered in the conduct of official business except the compensation provided by law.

2. If a magistrate who practices law appears as counsel for a client in a matter that is within the jurisdiction of a magistrate, that matter shall be heard only by a district judge or a district associate judge. A disqualification under this section shall be had upon motion of the magistrate or of any party, either orally or in writing, and the clerk of the district court shall reassign the matter to a proper judicial officer.

(83 Acts, ch 186, § 1605, 10201) SF 495

NEW section

602.1606 Judicial officer disqualified. A judicial officer is disqualified from acting in a proceeding, except upon the consent of all of the parties, if any of the following circumstances exists:

1. The judicial officer has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

2. The judicial officer served as a lawyer in the matter in controversy, or a lawyer with whom the judicial officer previously practiced law served during that association as a lawyer concerning the matter, or the judicial officer or such lawyer has been a material witness concerning the matter.

3. The judicial officer knows that the officer, individually or as a fiduciary, or the officer's spouse or a person related to either of them by consanguinity or affinity within the third degree or the spouse of such a person has a financial interest in the subject matter in controversy or in a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.

4. The judicial officer or the officer's spouse, or a person related to either of them by consanguinity or affinity within the third degree or the spouse of such a person, is a party to the proceeding, or an officer, director, or trustee of a party, or is acting as a lawyer in the proceeding, or is known by the judicial officer to have an interest that could be substantially affected by the outcome of the proceeding, or is, to the judicial officer's knowledge, likely to be a material witness in the proceeding.

A judicial officer shall disclose to all parties in a proceeding any existing circumstances in subsections 1 through 4 before the parties consent to the judicial officer's presiding in the proceeding.

(83 Acts, ch 186, § 1606, 10201) SF 495

NEW section

602.1607 Court employees shall not practice law. A full-time court employee shall not practice as an attorney or counselor of law.

(83 Acts, ch 186, § 1607, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1608 Salaries exclusive. Court employees shall not accept any compensation, fee, or reward for services rendered in connection with duties of court employment except the compensation provided by law.

(83 Acts, ch 186, § 1608, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1609 Compliance with gift law. Judicial officers and court employees shall comply with rules adopted by the supreme court under section 68B.11 with respect to the reporting of gifts received. Violations are subject to the criminal penalties provided in that section.

(83 Acts, ch 186, § 1609, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.1610 Mandatory retirement.

1. Judicial officers shall cease to hold office upon reaching the mandatory retirement age.

a. The mandatory retirement age is seventy-five years for all justices of the supreme court and district judges holding office on July 1, 1965.

b. The mandatory retirement age is seventy-two years for all justices of the supreme court, judges of the court of appeals, and district judges appointed to office after July 1, 1965.

c. The mandatory retirement age is seventy-two years for all district associate judges and judicial magistrates.

2. The mandatory retirement age for employees of the judicial department is as provided in section 97B.46.

(83 Acts, ch 186, § 1610, 10201) SF 495

NEW section

602.1611 Judicial retirement programs.

1. Justices of the supreme court, judges of the court of appeals and district judges are members of either the judicial retirement system or the Iowa public employees' retirement system, as determined under section 97B.69 and article 9, part 1.

2. District associate judges who were municipal court judges prior to July 1, 1973, and who are members of the judicial retirement system under article 9 shall remain members of the system. Other district associate judges are members of the Iowa public employees' retirement system, except that alternate district associate judges whose appointment is authorized under section 602.6303 are not members of either retirement system.

3. Magistrates may elect to be members of the Iowa public employees' retirement system upon filing in writing with the Iowa department of job service as provided in section 97B.41, subsection 3, paragraph "b," subparagraph (6).

(83 Acts, ch 186, § 1611, 10201) SF 495

NEW section

602.1612 Temporary service by retired judges.

1. Justices of the supreme court, judges of the court of appeals, district judges, and district associate judges who are retired by reason of age or who are drawing benefits under section 602.9106, and senior judges who have retired under section 602.9207 or who have relinquished senior judgeship under section 602.9208, subsection 1, may with their consent be assigned by the supreme court or by the chief judge in the case of district associate judges to temporary judicial duties on a court in this state. A retired justice or judge shall not be assigned to temporary judicial duties on any court superior to the highest court to which that justice or judge had been appointed prior to retirement, and shall not be assigned for temporary duties with the supreme court or the court of appeals except in the case of a temporary absence of a member of one of those courts.

2. A retired justice or judge shall not engage in the practice of law unless the justice or judge files an election to practice law with the clerk of the supreme court. Upon electing to practice law, the justice or judge is ineligible for assignment to temporary judicial duties at any time.

3. While serving under temporary assignment, a retired justice or judge shall be paid the compensation and expense reimbursement provided by law for justices or judges on the court to which assigned, but shall not receive annuity payments under the judicial retirement system and a district associate judge covered under chapter 97B shall receive monthly benefits under that chapter only if the district associate judge has attained the age of seventy years.

4. A retired justice or judge may be authorized by the order of assignment to appoint a temporary court reporter, who shall receive the compensation and expense reimbursement provided by law for a regular court reporter in the court to which the justice or judge is assigned.

5. An order of assignment shall be filed in the office of the clerk of the court on which the justice or judge is to serve.

(83 Acts, ch 186, § 1612, 10201) SF 495
Retired judicial magistrates; § 602.11114
NEW section

602.1613 Court employee retirement. Court employees are members of the Iowa public employees' retirement system under chapter 97B, except as otherwise provided in that chapter.

(83 Acts, ch 186, § 1613, 10201) SF 495
Transition provisions; see article 11, § 602.11101—602.11114
NEW section

ARTICLE 2

DISCIPLINE AND REMOVAL OF JUDICIAL OFFICERS

PART 1

SUPREME COURT ACTION

602.2101 Authority. The supreme court may retire, discipline, or remove a judicial officer from office for cause as provided in this part.

(83 Acts, ch 186, § 3101, 10201) SF 495
NEW section

602.2102 Commission on judicial qualifications.

1. A seven-member "Commission on Judicial Qualifications" is established. The commission consists of one district judge and two members who are practicing attorneys in Iowa and who do not belong to the same political party, to be appointed by the chief justice; and four electors of the state who are not attorneys, no more than two of whom belong to the same political party, to be appointed by the governor, subject to confirmation by the senate. The commission members shall serve for six-year terms, are ineligible for a second term, and except for the judicial member shall not hold any other office of and shall not be employed by the United States or the state of Iowa or its political subdivisions. Members appointed by the chief justice shall serve terms beginning January 1 of the year for which the appointments are made and members appointed by the governor shall serve staggered terms beginning and ending as provided by section 69.19. Vacancies shall be filled by appointment by the chief justice or governor as provided in this subsection, for the unexpired portion of the term.

2. If the judicial member is the subject of a charge before the commission, the chief justice shall appoint a district judge of another judicial district to act as the judicial member of the commission until the person charged is exonerated, or for the unexpired portion of the term if the person charged is not exonerated. If the judicial

member is a resident judge of the same judicial district as the judicial officer who is the subject of a charge before the commission, the chief justice shall appoint a district judge of another judicial district to act as the judicial member during that proceeding.

3. The commission shall elect its own chairperson, and the state court administrator or a designee of the state court administrator is the executive secretary of the commission.

(83 Acts, ch 186, § 3102, 10201) SF 495
NEW section

602.2103 Operation of commission. A quorum of the commission is four members. Only those commission members that are present at commission meetings or hearings may vote. An application by the commission to the supreme court to retire, discipline, or remove a judicial officer, or an action by the commission which affects the final disposition of a complaint, requires the affirmative vote of at least four commission members. Notwithstanding chapter 28A and chapter 68A, all records, papers, proceedings, meetings, and hearings of the commission are confidential, but if the commission applies to the supreme court to retire, discipline, or remove a judicial officer, the application and all of the records and papers in that proceeding are public documents.

(83 Acts, ch 186, § 3103, 10201) SF 495
NEW section

602.2104 Procedure before commission.

1. Charges before the commission shall be in writing but may be simple and informal. The commission shall investigate each charge as indicated by its gravity. If the charge is groundless, it shall be dismissed by the commission. If the charge appears to be substantiated but does not warrant application to the supreme court, the commission may dispose of it informally by conference with or communication to the judicial officer involved. If the charge appears to be substantiated and if proved would warrant application to the supreme court, notice shall be given to the judicial officer and a hearing shall be held before the commission. The commission may employ investigative personnel, in addition to the executive secretary, as it deems necessary.

2. In case of a hearing before the commission, written notice of the charge and of the time and place of hearing shall be mailed to the judicial officer at the officer's residence at least twenty days prior to the time set for hearing. Hearing shall be held in the county where the judicial officer resides unless the commission and the judicial officer agree to a different location. The judicial officer shall continue to perform judicial duties during the pendency of the charge, unless otherwise ordered by the commission. The commission has subpoena power on behalf of the state and the judicial officer, and disobedience of the commission's subpoena is punishable as contempt in the district court for the county in which the hearing is held. The attorney general shall prosecute the charge before the commission on behalf of the state. The judicial officer may defend and has the right to participate in person and by counsel, to cross-examine, to be confronted by the witnesses, and to present evidence in accordance with the rules of civil procedure. A complete record shall be made of the evidence by a court reporter. In accordance with its findings on the evidence, the commission shall dismiss the charge or make application to the supreme court to retire, discipline, or remove the judicial officer.

(83 Acts, ch 186, § 3104, 10201) SF 495
NEW section

602.2105 Rules. The commission shall prescribe rules for its operation and procedure.

(83 Acts, ch 186, § 3105, 10201) SF 495
NEW section

602.2106 Procedure before supreme court.

1. If the commission submits an application to the supreme court to retire, discipline, or remove a judicial officer, the commission shall promptly file in the supreme court a transcript of the hearing before the commission. The statutes and rules relative to proceedings in appeals of equity suits apply.

2. The attorney general shall prosecute the proceedings in the supreme court on behalf of the state, and the judicial officer may defend in person and by counsel.

3. Upon application by the commission, the supreme court may do either of the following:

a. Retire the judicial officer for permanent physical or mental disability which substantially interferes with the performance of judicial duties.

b. Discipline or remove the judicial officer for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings judicial office into disrepute, or substantial violation of the canons of judicial ethics. Discipline may include suspension without pay for a definite period of time not to exceed twelve months.

4. If the supreme court finds that the application should be granted in whole or in part, it shall render the decree that it deems appropriate.

(83 Acts, ch 186, § 3106, 10201) SF 495

NEW section

602.2107 Civil immunity. The making of charges before the commission, the giving of evidence or information before the commission or to an investigator employed by the commission, and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court are privileged in actions for defamation.

(83 Acts, ch 186, § 3107, 10201) SF 495

NEW section

PART 2

OTHER PROCEEDINGS

602.2201 Impeachment. Judicial officers may be removed from office by impeachment pursuant to chapter 68.

(83 Acts, ch 186, § 3201, 10201) SF 495

NEW section

ARTICLE 3

CERTIFICATION AND REGULATION OF SHORTHAND REPORTERS

PART 1

CERTIFICATION

602.3101 Board of examiners.

1. A five-member board of examiners of shorthand reporters is established, consisting of three certified shorthand reporters and two persons who are not certified shorthand reporters and who shall represent the general public. Members shall be appointed by the supreme court. A certified member shall be actively engaged in the practice of certified shorthand reporting and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified shorthand reporters may recommend the names of potential board members to the supreme court, but the supreme court is not bound by the recommendations. A board member shall not be required to be a member of a professional association or society composed of certified shorthand reporters.

2. The state court administrator or a designee of the state court administrator shall act as secretary to the board.

(83 Acts, ch 186, § 4101, 10201) SF 495

NEW section

602.3102 Terms of office. Appointments shall be for three-year terms and each term shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment by the supreme court. Members shall serve a maximum of three terms or nine years, whichever is less.

(83 Acts, ch 186, § 4102, 10201) SF 495

NEW section

602.3103 Public members. The public members of the board may participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

(83 Acts, ch 186, § 4103, 10201) SF 495

NEW section

602.3104 Meetings. The board of examiners shall fix stated times for the examination of the candidates and shall hold at least one meeting each year at the seat of government. A majority of the members of the board constitutes a quorum.

(83 Acts, ch 186, § 4104, 10201) SF 495

NEW section

602.3105 Applications. Applications for certification shall be on forms prescribed and furnished by the board and the board shall not require that the application contain a photograph of the applicant. An applicant shall not be denied certification because of age, citizenship, sex, race, religion, marital status, or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of certified shorthand reporting. Character references may be required, but shall not be obtained from certified shorthand reporters.

(83 Acts, ch 186, § 4105, 10201) SF 495

NEW section

602.3106 Fees.

1. The supreme court shall set the fees for examination and for certification. The fee for examination shall be based on the annual cost of administering the examinations. The fee for certification shall be based upon the administrative costs of sustaining the board, which shall include but shall not be limited to the cost for per diem, expenses, and travel for board members, and office facilities, supplies, and equipment.

2. The state court administrator shall collect and account for all fees payable to the board.

(83 Acts, ch 186, § 4106, 10201) SF 495

NEW section

602.3107 Examinations. The board may administer as many examinations per year as necessary, but shall administer at least one examination per year. The scope of the examinations and the methods of procedure shall be prescribed by the board. A written examination may be conducted by representatives of the board. Examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination also shall be concealed as far as possible. Applicants who fail the examination once may take the examination at the next scheduled time. Thereafter, the applicant may be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, and the board shall provide the information. However,

if the board administers a uniform, standardized examination, the board is only required to provide the examination grade and other information concerning the applicant's examination results that is available to the board.

(83 Acts, ch 186, § 4107, 10201) SF 495

NEW section

PART 2

REGULATION

602.3201 Unlawful use of title. A person who is certified by the board is a certified shorthand reporter. A person who is not certified by the board shall not assume the title of certified shorthand reporter, or use the abbreviation C.S.R., or any words, letters, or figures to indicate that the person is a certified shorthand reporter.

(83 Acts, ch 186, § 4201, 10201) SF 495

NEW section

602.3202 Transcript fee. Certified shorthand reporters are entitled to receive compensation for transcribing their official notes as set by rule of the supreme court, to be paid for in all cases by the party ordering the transcription.

(83 Acts, ch 186, § 4202, 10201) SF 495

NEW section

602.3203 Revocation or suspension. A certification may be revoked or suspended if the person is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of shorthand reporting, or engaging in unethical conduct or in a practice that is harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the practice of shorthand reporting or conviction of a felony that would affect the ability to practice shorthand reporting. A copy of the record of conviction or plea of guilty is conclusive evidence.
6. Fraud in representations relating to skill or ability.
7. Use of untruthful or improbable statements in advertisements.

(83 Acts, ch 186, § 4203, 10201) SF 495

NEW section

PART 3

PENAL PROVISIONS

602.3301 Misuse of confidential information — penalty.

1. A member of the board shall not disclose information relating to the following:
 - a. Criminal history or prior misconduct of the applicant.
 - b. The contents of the examination.
 - c. Examination results other than final scores except for information about the results of an examination which is given to the person who took the examination.
2. A member of the board who willfully communicates or seeks to communicate information referred to in subsection 1, or a person who willfully requests, obtains, or seeks to obtain information referred to in subsection 1, is guilty of a simple misdemeanor.

(83 Acts, ch 186, § 4301, 10201) SF 495

NEW section

602.3302 Violations punished. A person who violates any provision of this article is guilty of a simple misdemeanor.

(83 Acts, ch 186, § 4302, 10201) SF 495

NEW section

ARTICLE 4
SUPREME COURT
PART 1
GENERAL PROVISIONS

602.4101 Justices — quorum.

1. The supreme court consists of nine justices. A majority of the justices sitting constitutes a quorum, but less than three justices is not a quorum.

2. Justices of the supreme court shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Justices of the supreme court shall qualify for office as provided in chapter 63.

(83 Acts, ch 186, § 5101, 10201) SF 495
NEW section

602.4102 Jurisdiction.

1. The supreme court has appellate jurisdiction only in cases in chancery, and constitutes a court for the correction of errors at law. The jurisdiction of the supreme court is coextensive with the state.

2. A civil or criminal action or special proceeding filed with the supreme court for appeal or review, may be transferred by the supreme court to the court of appeals by issuing an order of transfer. The jurisdiction of the supreme court in the matter ceases upon the filing of that order by the clerk of the supreme court. A matter which has been transferred to the court of appeals pursuant to order of the supreme court is not thereafter subject to the jurisdiction of the supreme court, except as provided in subsection 4.

3. The supreme court shall prescribe rules for the transfer of matters to the court of appeals. These rules may provide for the selective transfer of individual cases and may provide for the transfer of cases according to subject matter or other general criteria. Rules relating to the transfer of cases are subject to section 602.4202. A rule shall not provide for the transfer of a matter other than by an order of transfer under subsection 2.

4. A party to an appeal decided by the court of appeals may, as a matter of right, file an application with the supreme court for further review. An application for further review shall not be granted by the supreme court unless the application was filed within twenty days following the filing of the decision of the court of appeals. The court of appeals shall extend the time for filing of an application if the court of appeals determines that a failure to timely file an application was due to the failure of the clerk of the court of appeals to notify the prospective applicant of the filing of the decision. If an application for further review is not acted upon by the supreme court within thirty days after the application was filed, the application is deemed denied, the supreme court loses jurisdiction, and the decision of the court of appeals is conclusive.

5. The supreme court shall prescribe rules of appellate procedure which shall govern further review by the supreme court of decisions of the court of appeals. These rules shall contain, but need not be limited to, a specification of the grounds upon which further review may, in the discretion of the supreme court, be granted. These rules are subject to section 602.4202.

(83 Acts, ch 186, § 5102, 10201) SF 495
NEW section

602.4103 Chief justice. The justices of the supreme court shall select one justice as chief justice, to serve during that justice's term of office. The chief justice is eligible for reselection. The chief justice shall appoint one of the other justices to act during the absence or inability of the chief justice to act, and when so acting the appointee has all the rights, duties, and powers of the chief justice.

(83 Acts, ch 186, § 5103, 10201) SF 495
NEW section

602.4104 Divisions — full court.

1. The supreme court may be divided into divisions of three or more justices in the manner it prescribes by rule. The divisions may hold open court separately and cases may be submitted to each division separately, in accordance with these rules.

2. The supreme court shall prescribe rules for the submission of a case or petition for rehearing whenever differences arise between members of divisions or whenever the chief justice orders or directs the submission of the question or petition for rehearing by the whole court.

3. The supreme court shall prescribe rules to provide for the submission of cases to the entire bench or to the separate divisions. These rules are subject to section 602.4202.

(83 Acts, ch 186, § 5104, 10201) SF 495
NEW section

602.4105 Time and place court meets. The supreme court shall hold court at the seat of state government and elsewhere as the court orders, and at the times the court orders.

(83 Acts, ch 186, § 5105, 10201) SF 495
NEW section

602.4106 Opinions — reports.

1. The decisions of the court on all questions passed upon by it, including motions and points of practice, shall be specifically stated, and shall be accompanied with an opinion upon those which are deemed of sufficient importance, together with any dissents, which dissents may be stated with or without an opinion. All decisions and opinions shall be in writing and filed with the clerk, except that rulings upon motions may be entered upon the announcement book.

2. The records and reports for each case shall show whether a decision was made by a full bench, and whether any, and if so which, of the judges dissented from the decision.

3. The supreme court may publish reports of its official opinions, or it may direct that publication of the opinions by a private publisher shall be considered the official reports.

4. If the decision, in the judgment of the court, is not of sufficient general importance to be published, it shall be so designated, in which case it shall not be included in the reports, and no case shall be reported except by order of the full bench.

(83 Acts, ch 186, § 5106, 10201) SF 495
NEW section

602.4107 Divided court. When the supreme court is equally divided in opinion, the judgment of the court below shall stand affirmed, but the decision of the supreme court is of no further force or authority. Opinions may be filed in these cases.

(83 Acts, ch 186, § 5107, 10201) SF 495
NEW section

602.4108 Attendance of sheriff of Polk county. The court may require the attendance and services of the sheriff of Polk county at any time.

(83 Acts, ch 186, § 5108, 10201) SF 495
NEW section

PART 2

RULES OF PROCEDURE

602.4201 Rules governing actions and proceedings.

1. The supreme court may prescribe all rules of pleading, practice, evidence, and procedure, and the forms of process, writs, and notices, for all proceedings in all

courts of this state, for the purposes of simplifying the proceedings and promoting the speedy determination of litigation upon its merits. Rules are subject to section 602.4202.

2. Rules of appellate procedure relating to appeals to and review by the supreme court, discretionary review by the courts of small claims actions, review by the supreme court by writ of certiorari to inferior courts, appeal to or review by the court of appeals of a matter transferred to that court by the supreme court, and further review by the supreme court of decisions of the court of appeals, shall be known as "Rules of Appellate Procedure", and shall be published as provided in section 14.12, subsection 7.

(83 Acts, ch 186, § 5201, 10201) SF 495
NEW section

602.4202 Rule-making procedure.

1. The procedures in this section apply to rules prescribed by the supreme court under section 602.4201, and to any other rule-making authority which is specifically conditioned upon or made subject to this section.

2. Rules and forms prescribed by the supreme court shall be reported by the court to the chairperson and ranking member of the senate judiciary committee, the chairperson and ranking member of the house judiciary and law enforcement committee, and the legislative council within twenty days of the issuance of the rules or forms.

3. After sixty days, rules and forms reported, as provided in subsection 2, shall take effect as of that date or as of the date provided in the court's report, if later, and shall be enrolled in substantially the same manner as acts are enrolled and shall be filed with the secretary of state and bound with the acts of the general assembly, provided that no request for delay has been made pursuant to subsection 4.

4. Upon the vote of a majority of its members, the legislative council may, within sixty days of receiving a report pursuant to subsection 2, delay the effective date of a rule or form until July 1 following the date of their submission, with such changes, if any, that may have been enacted by the general assembly, and thereafter all laws in conflict are of no force or effect.

(83 Acts, ch 186, § 5202, 10201) SF 495
NEW section

PART 3

ADMINISTRATION

602.4301 Clerk of supreme court.

1. The supreme court shall appoint a clerk of the supreme court and may remove the clerk for cause.

2. The clerk of the supreme court shall have an office at the seat of government, shall keep a complete record of the proceedings of the court, and shall not allow an opinion filed in the office to be removed. Opinions shall be open to examination and, upon request, may be copied and certified. The clerk promptly shall announce by mail to one of the attorneys on each side any ruling made or decision rendered, shall record every opinion rendered as soon as filed, shall mail a copy of each opinion rendered to each attorney of record and to each party not represented by counsel, and shall perform all other duties pertaining to the office of clerk.

3. The clerk of the supreme court shall collect and account to the state court administrator for all fees received by the supreme court.

4. The clerk of the supreme court shall give bond as provided in chapter 64.

(83 Acts, ch 186, § 5301, 10201) SF 495
NEW section

602.4302 Deputy clerk — staff.

1. The clerk of the supreme court may appoint a deputy clerk of the supreme court. In the absence or disability of the clerk, the deputy shall perform the duties of the clerk.

2. The clerk of the supreme court may employ necessary staff, as authorized by the supreme court.

(83 Acts, ch 186, § 5302, 10201) SF 495

NEW section

602.4303 Supreme court fees.

1. The supreme court shall by rule prescribe fees for the services of the court and clerk of the supreme court.

2. Rules prescribed under this section are subject to section 602.4202.

3. If any of the fees are not paid in advance, execution may issue for them, except for fees payable by the county or the state.

(83 Acts, ch 186, § 5303, 10201) SF 495

NEW section

602.4304 Supreme court staff.

1. The supreme court may appoint not more than nine attorneys or graduates of a reputable law school to act as legal assistants to the justices of the supreme court.

2. The supreme court may employ other professional and clerical staff as necessary to accomplish the judicial duties of the court.

(83 Acts, ch 186, § 5304, 10201) SF 495

NEW section

602.4305 Limitation on expenses. A justice of the supreme court may choose whether to reside at the seat of government or elsewhere. The court administrator may approve necessary travel and actual expenses, incurred by a justice of the supreme court for attendance at oral arguments and judicial conferences, not to exceed the maximum amount established by the supreme court pursuant to section 602.1509.

(83 Acts, ch 186, § 5305, 10201) SF 495

NEW section

ARTICLE 5

COURT OF APPEALS

PART 1

GENERAL PROVISIONS

602.5101 Court of appeals. The Iowa court of appeals is established as an intermediate court of appeals. The court of appeals is a court of record.

(83 Acts, ch 186, § 6101, 10201) SF 495

NEW section

602.5102 Judges—quorum.

1. The court of appeals consists of six judges; three judges of the court of appeals constitute a quorum.

2. Judges of the court of appeals shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Judges of the court of appeals shall qualify for office as provided in chapter 63.

3. A person appointed as a judge of the court of appeals must satisfy all requirements for a justice of the supreme court.

4. The court of appeals may be divided into divisions of three or more judges in a manner as it may prescribe by rule. The divisions may hold open court separately and cases may be submitted to each division separately in accordance with rules the court may prescribe. The rules shall provide for submitting a case or petition for

rehearing or hearing en banc at the direction of the chief judge or at the request of a specified number of judges designated in the rules. The court of appeals shall prescribe all rules necessary to provide for the submission of cases to the whole court or to a division.

(83 Acts, ch 186, § 6102, 10201) SF 495

NEW section

(83 Acts, ch 204, § 11, 12) SF 549

Subsection 1 amended

NEW subsection 4

602.5103 Jurisdiction.

1. The jurisdiction of the court of appeals is coextensive with the state. The court of appeals has appellate jurisdiction only in cases in chancery, and constitutes a court for the correction of errors at law.

2. The court of appeals has subject matter jurisdiction to review the following matters:

- a. Civil actions and special civil proceedings, whether at law or in equity.
- b. Criminal actions.
- c. Postconviction remedy proceedings.
- d. A judgment of a district judge in a small claims action.

3. The jurisdiction of the court of appeals with respect to actions and parties is limited to those matters for which an appeal or review proceeding properly has been brought before the supreme court, and for which the supreme court pursuant to section 602.4102 has entered an order transferring the matter to the court of appeals.

4. The court of appeals and judges of the court may issue writs and other process necessary for the exercise and enforcement of the court's jurisdiction, but a writ, order, or other process issued in a matter that is not before the court pursuant to an order of transfer issued by the supreme court is void.

(83 Acts, ch 186, § 6103, 10201) SF 495

NEW section

602.5104 Sessions — location. The court of appeals shall meet at the seat of state government at the times specified by order of the supreme court. Court sessions shall be held in the courtroom of the supreme court at the statehouse.

(83 Acts, ch 186, § 6104, 10201) SF 495

NEW section

602.5105 Chief judge.

1. At the first meeting in each odd-numbered year the judges of the court of appeals by majority vote shall designate one judge as chief judge, to serve for a two-year term. A vacancy in the office of chief judge shall be filled for the remainder of the unexpired term by majority vote of the judges of the court of appeals, after any vacancy on the court has been filled.

2. The chief judge shall supervise the business of the court and shall preside when present at a session of the court.

3. If the chief judge desires to be relieved of the duties of chief judge while retaining the status of judge of the court of appeals, the chief judge shall notify the chief justice and the other judges of the court of appeals. The office of chief judge shall be deemed vacant, and shall be filled as provided in this section.

4. In the absence of the chief judge, the duties of the chief judge shall be exercised by the judge next in precedence. Judges of the court of appeals other than the chief judge have precedence according to the length of time served on that court. Of several judges having equal periods of time served, the eldest has precedence.

(83 Acts, ch 186, § 6105, 10201) SF 495

NEW section

602.5106 Decisions of the court — finality.

1. The court of appeals may affirm, modify, vacate, set aside, or reverse any judgment, order, or decree of the district court or other tribunal which is under the jurisdiction of the court, and may remand the cause and direct the entry of an appropriate judgment, order, or decree, or require further proceedings to be had as is just. If the judges are equally divided on the ultimate decision, the judgment, order, or decree shall be affirmed.

2. A decision of the court of appeals is final and shall not be reviewed by any other court except upon the granting by the supreme court of an application for further review as provided in section 602.4102. Upon the filing of the application, the judgment and mandate of the court of appeals is stayed pending action of the supreme court or until the expiration of the time specified in section 602.4102, subsection 4.

(83 Acts, ch 186, § 6106, 10201) SF 495

NEW section

602.5107 Rules. The court of appeals, subject to the approval of the supreme court, may prescribe rules for the conduct of business of the court of appeals. Rules prescribed shall not abridge, enlarge, or modify a substantive right.

(83 Acts, ch 186, § 6107, 10201) SF 495

NEW section

602.5108 When decisions effective. A decision of the court of appeals shall be in writing, and shall be effective, except as provided in section 602.5106, subsection 2, when the decision of the court is filed with the clerk of the supreme court.

(83 Acts, ch 186, § 6108, 10201) SF 495

NEW section

602.5109 Process — style — seal.

1. Process of the court of appeals shall be styled: "In the Court of Appeals of Iowa".

2. The supreme court may adopt a seal for the court of appeals. Upon adoption, the clerk of the supreme court shall file a facsimile and description of the design in the office of the secretary of state. Judicial notice shall be taken of the official seal of the court of appeals.

(83 Acts, ch 186, § 6109, 10201) SF 495

NEW section

602.5110 Records. The records of the court of appeals shall be kept by the clerk of the supreme court, and at the same place as, but segregated from the records of the supreme court. Records of the court of appeals shall be maintained in the same manner as records of the supreme court under article 5.

(83 Acts, ch 186, § 6110, 10201) SF 495

NEW section

602.5111 Publication of opinions. The state court administrator shall cause the publication of opinions of the judges of the court of appeals in accordance with rules prescribed by the supreme court. Section 602.4106 applies to decisions of the court of appeals. The state court administrator shall cause the publication of abstracts of all decisions for which written opinions are not published.

(83 Acts, ch 186, § 6111, 10201) SF 495

NEW section

602.5112 Fees — costs. Costs to be collected and awarded in the court of appeals shall be as prescribed from time to time by the supreme court. Fees and costs may be awarded to a party to the appeal in the discretion of the court of appeals. A fee shall not be charged for the docketing of a matter in the court of appeals upon transfer from the supreme court.

(83 Acts, ch 186, § 6112, 10201) SF 495

NEW section

PART 2
ADMINISTRATION

602.5201 Clerk of court.

1. The clerk of the supreme court or a deputy of that clerk shall act as clerk of the court of appeals. The clerk of the court of appeals shall keep a complete record of the proceedings of that court, shall collect the fees and costs prescribed by the supreme court, and shall account for all receipts and disbursements of the court of appeals.

2. The clerk of the supreme court, subject to the approval of the supreme court, may employ additional staff for the performance of duties relating to the court of appeals.

(83 Acts, ch 186, § 6201, 10201) SF 495
NEW section

602.5202 Secretary to judge. Each judge of the court of appeals may employ one personal secretary.

(83 Acts, ch 186, § 6202, 10201) SF 495
NEW section

602.5203 Law clerks. The court of appeals may employ not more than six attorneys or graduates of a reputable law school to act as legal assistants to the court.

(83 Acts, ch 186, § 6203, 10201) SF 495
NEW section
(83 Acts, ch 204, § 13) SF 549
Amended

602.5204 Physical facilities. The state court administrator shall obtain suitable facilities for the court of appeals at the seat of state government. To the extent practicable, the court administrator shall utilize existing supreme court facilities.

(83 Acts, ch 186, § 6204, 10201) SF 495
NEW section

602.5205 Limitation on expenses.

1. Each judge of the court of appeals shall be provided personal office space and equipment, and facilities for a secretary and law clerk at the seat of state government only. Each judge may choose whether to reside at the seat of government or elsewhere. The court administrator may approve necessary travel and actual expenses, incurred by a judge of the court of appeals for attendance at oral arguments and judicial conferences, not to exceed the maximum amount established by the supreme court pursuant to section 602.1509.

2. State funds shall not be used for securing or maintaining facilities for court of appeals judges or employees at any place other than the seat of state government.

(83 Acts, ch 186, § 6205, 10201) SF 495
NEW section

ARTICLE 6
DISTRICT COURT

PART 1
GENERAL PROVISIONS

602.6101 Unified trial court. A unified trial court is established. This court is the "Iowa District Court". The district court has exclusive, general, and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile, except in cases where exclusive or concurrent jurisdiction is conferred upon

some other court, tribunal, or administrative body. The district court has all the power usually possessed and exercised by trial courts of general jurisdiction, and is a court of record.

(83 Acts, ch 186, § 7101, 10201) SF 495

NEW section

602.6102 Appeals and writs of error. The district court has jurisdiction in appeals and writs of error taken in civil and criminal actions and special proceedings authorized to be taken from tribunals, boards, or officers under the laws of this state, and has general supervision thereof, in all matters, to prevent and correct abuses where no other remedy is provided.

(83 Acts, ch 186, § 7102, 10201) SF 495

NEW section

602.6103 Court in continuous session. The district court of each judicial district shall be in continuous session in all of the several counties comprising the district.

(83 Acts, ch 186, § 7103, 10201) SF 495

NEW section

602.6104 Judicial officers.

1. The jurisdiction of the Iowa district court shall be exercised by district judges, district associate judges, and magistrates.

2. Judicial officers of the district court shall not sit together in the trial of causes nor upon the hearings of motions for new trials. They may hold court in the same county at the same time.

(83 Acts, ch 186, § 7104, 10201) SF 495

NEW section

602.6105 Places of holding court — magistrate schedules.

1. Courts shall be held at the places in each county designated by the chief judge of the judicial district, except that the determination of actions, special proceedings, and other matters not requiring a jury may be done at some other place in the district with the consent of the parties.

2. In any county having two county seats, court shall be held at each, and, in the county of Pottawattamie, court shall be held at Avoca, as well as at the county seat.

3. The chief judge of a judicial district shall designate times and places for magistrates to hold court to ensure accessibility of magistrates at all times throughout the district. The schedule of times and places of availability of magistrates and any schedule changes shall be disseminated by the chief judge to the peace officers within the district.

(83 Acts, ch 186, § 7105, 10201) SF 495

NEW section

602.6106 Sessions not at county seats — effect — duty of clerk. When court is held at a place that is not the county seat, all of the provisions of the Code relating to district courts are applicable, except as follows: All proceedings in the court have, within the territory over which the court has jurisdiction, the same force and effect as though ordered in the court at the county seat, but transcripts of judgments and decrees, levies of writs of attachment upon real estate, mechanics' liens, lis pendens, sales of real estate, redemption, satisfaction of judgments and mechanics' liens, and dismissals or decrees in lis pendens, together with all other matters affecting titles to real estate, shall be certified by the deputy clerk to the clerk of district court at the county seat who shall immediately enter them upon the records at the county seat.

(83 Acts, ch 186, § 7106, 10201) SF 495

NEW section

602.6107 Judicial districts. For all judicial purposes except as provided in section 602.6109, the state is divided into eight judicial districts as follows:

1. The first district consists of the counties of Dubuque, Delaware, Clayton, Allamakee, Winneshiek, Chickasaw, Fayette, Buchanan, Black Hawk, Howard, and Grundy.

2. The second district consists of the counties of Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, Franklin, Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, and Boone.

3. The third district consists of the counties of Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista, Plymouth, Sioux, Woodbury, Ida, Monona, and Crawford.

4. The fourth district consists of the counties of Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.

5. The fifth district consists of the counties of Guthrie, Dallas, Polk, Jasper, Madison, Warren, Marion, Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

6. The sixth district consists of the counties of Tama, Benton, Linn, Jones, Iowa, and Johnson.

7. The seventh district consists of the counties of Jackson, Clinton, Cedar, Scott, and Muscatine.

8. The eighth district consists of the counties of Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, Van Buren, Louisa, Henry, Des Moines, and Lee.

(83 Acts, ch 186, § 7107, 10201) SF 495

NEW section

602.6108 Reassignment of personnel. The chief justice of the supreme court shall assign judicial officers and court employees from one judicial district to another, on a continuing basis if need be, in order to handle the judicial business in all districts promptly and efficiently at all times.

(83 Acts, ch 186, § 7108, 10201) SF 495

NEW section

602.6109 Judicial election districts.

1. Judicial election districts are established for purposes of nomination, appointment, and retention of district judges and for other purposes specifically provided by law.

2. The judicial election districts are as follows:

a. Election district 1A consists of the counties of Dubuque, Delaware, Clayton, Allamakee, and Winneshiek.

b. Election district 1B consists of the counties of Chickasaw, Fayette, Buchanan, Black Hawk, Howard, and Grundy.

c. Election district 2A consists of the counties of Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, and Franklin.

d. Election district 2B consists of the counties of Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, and Boone.

e. Election district 3A consists of the counties of Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, and Buena Vista.

f. Election district 3B consists of the counties of Plymouth, Sioux, Woodbury, Ida, Monona, and Crawford.

g. Election district 4 consists of the fourth judicial district, as established by section 602.6107.

h. Election district 5A consists of the counties of Guthrie, Dallas, Jasper, Madison, Warren, and Marion.

- i.* Election district 5B consists of the counties of Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
- j.* Election district 5C consists of Polk county.
- k.* Election district 6 consists of the sixth judicial district, as established by section 602.6107.
- l.* Election district 7 consists of the seventh judicial district, as established by section 602.6107.
- m.* Election district 8A consists of the counties of Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, and Van Buren.
- n.* Election district 8B consists of the counties of Louisa, Henry, Des Moines, and Lee.

(83 Acts, ch 186, § 7109, 10201) SF 495

Election district 5C established January 1, 1985; § 602.11110—602.11112

NEW section

PART 2

DISTRICT JUDGES

602.6201 Office of district judge — apportionment.

1. District judges shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. District judges shall qualify for office as provided in chapter 63.

2. A district judge must be a resident of the judicial election district in which appointed and retained. Subject to the provision for reassignment of judges under section 602.6108, a district judge shall serve in the district of the judge's residence while in office, regardless of the number of judgeships to which the district is entitled under subsection 3.

3. The number of judgeships to which each of the judicial election districts is entitled is determined according to the following formula:

a. In an election district where the largest county contains two hundred thousand or more population, there is one judgeship per seven hundred twenty-five combined civil and criminal filings or major fraction thereof. However, the seat of government is entitled to one additional judgeship.

b. In an election district where the largest county contains eighty-five thousand or more population, but less than two hundred thousand, there is one judgeship per six hundred twenty-five combined civil and criminal filings or major fraction thereof.

c. In an election district where the largest county contains forty-five thousand or more population, but less than eighty-five thousand, there is one judgeship per five hundred twenty-five combined civil and criminal filings or major fraction thereof.

d. In an election district where the largest county contains less than forty-five thousand population, there is one judgeship per four hundred seventy-five combined civil and criminal filings or major fraction thereof.

e. Notwithstanding paragraph "a," "b," "c," or "d," each election district is entitled to not less than one judgeship for each forty thousand population or major fraction thereof contained in the election district.

f. The filings included in the determinations to be made under this subsection shall include juvenile court filings after July 1, 1985, shall not include small claims or nonindictable misdemeanors, and shall not include either civil actions for money judgment where the amount in controversy does not exceed three thousand dollars or indictable misdemeanors, which were assigned to district associate judges and judicial magistrates as shown on their administrative reports, but shall include appeals from decisions of judicial magistrates, district associate judges, and district judges sitting as judicial magistrates. The figures on filings shall be the average for the latest available previous three-year period and when current census figures on population are not available, figures shall be taken from the state department of health computations.

4. For purposes of this section, a vacancy means the death, resignation, retirement, or removal of a district judge, or the failure of a district judge to be retained in office at the judicial election, or an increase in judgeships under this section.

5. In those judicial election districts having more district judges than the number of judgeships specified by the formula in subsection 3, vacancies shall not be filled.

6. In those judicial election districts having fewer or the same number of district judges as the number of judgeships specified by the formula in subsection 3, vacancies in the number of district judges shall be filled as they occur.

7. In those judicial districts that contain more than one judicial election district, a vacancy in a judicial election district shall not be filled if the total number of district judges in all judicial election districts within the judicial district equals or exceeds the aggregate number of judgeships to which all of the judicial election districts of the judicial district are authorized.

8. Vacancies shall not be filled in a judicial election district which becomes entitled to fewer judgeships under subsection 3, but an incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships.

9. During February of each year, and at other times as appropriate, the state court administrator shall make the determinations required under this section, and shall notify the appropriate nominating commissions and the governor of appointments that are required.

10. Notwithstanding the formula for determining the number of judgeships in this section, the number of district judges shall not exceed ninety-nine during the period commencing July 1, 1983 and ending as the general assembly shall specify.

(83 Acts, ch 186, § 7201, 10201) SF 495
 Additional judgeships; § 602.11109 and 83 Acts, ch 204, § 1 (SF 549)
 NEW section

602.6202 Jurisdiction. District judges have the full jurisdiction of the district court, including the respective jurisdictions of district associate judges and magistrates. While exercising the jurisdiction of magistrates, district judges shall employ magistrates' practice and procedure.

(83 Acts, ch 186, § 7202, 10201) SF 495
 NEW section

602.6203 Preparation and signing of record — alterations.

1. The clerk of district court shall from time to time make a record of all proceedings of the district court, which, when correct, shall be signed by the judge.

2. Delay in the preparation and signing of the record of court proceedings shall not prevent the issuance of an execution and other proceedings may be had in the same manner as though the record had been signed.

3. A record shall not be amended or impaired by the clerk of the district court, or by any other officer of the court, or by any other person, except pursuant to the order of the district court or some other court of competent authority.

4. Entries made and signed, unless amended or expunged as provided in subsection 3, may be altered only to correct an evident mistake.

(83 Acts, ch 186, § 7203, 10201) SF 495
 NEW section

PART 3

DISTRICT ASSOCIATE JUDGES

602.6301 Number and apportionment of district associate judges. There shall be one district associate judge in counties having a population, according to the most recent federal decennial census, of more than thirty-five thousand and less than eighty thousand; two in counties having a population of more than eighty thousand and less than one hundred twenty-five thousand; three in counties having

a population of more than one hundred twenty-five thousand and less than two hundred thousand; and four in counties having a population of two hundred thousand or above. A district associate judge appointed pursuant to section 602.6302 or 602.6303 shall not be counted for purposes of this section.

(83 Acts, ch 186, § 7301, 10201) SF 495

NEW section

602.6302 Appointment of district associate judge in lieu of magistrates.

1. In a county having an apportionment of three or more magistrates, the chief judge of the judicial district, subject to the limitations of this section, may designate by order that a district associate judge be appointed pursuant to this section in lieu of magistrates appointed under section 602.6403. The order of substitution may be made only upon the affirmative vote of a majority of the district judges in that judicial election district and only upon a finding by a majority of those district judges that the substitution would provide more speedy and efficient performance of judicial business within that judicial election district. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission no later than the thirty-first day of March of the year in which the substitution is to take effect. A copy of the order also shall be sent to the state court administrator.

2. For a county in which a substitution order is in effect, the number of magistrates actually appointed pursuant to section 602.6403 shall be reduced by three for each district associate judge substituted under this section. Upon a subsequent reduction in the apportionment of magistrates to the county, the magistrate appointing commission shall further reduce the number of magistrates appointed.

3. a. Except as provided in subsections 1 and 2, a substitution shall not increase or decrease the number of magistrates authorized by this article.

b. A substitution pursuant to this section shall not be made if the effect would be to remove a magistrate from office prior to the expiration of the magistrate's term.

c. A substitution shall not be made where the apportionment of magistrates to a county is insufficient to permit the full reduction in appointments of magistrates as required by subsection 2.

4. If an apportionment by the state court administrator pursuant to section 602.6401 reduces the number of magistrates in the county to less than three, or if a majority of the district judges in the judicial election district determines that a substitution is no longer desirable, then the substituted office shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily. Upon the termination of office of that district associate judge, appointments shall be made pursuant to section 602.6403 as necessary to reestablish terms of office as provided in section 602.6403, subsection 4.

(83 Acts, ch 186, § 7302, 10201) SF 495

NEW section

602.6303 Alternate district associate judge.

1. In a county having only one district associate judge, the county magistrate appointing commission, by majority vote, may authorize that an alternate district associate judge be appointed.

2. A person whose appointment is authorized under this section shall be designated as an alternate and is subject to this section.

3. An alternate district associate judge shall serve initial and regular terms and shall stand for retention in office in the same manner as regular district associate judges. However, a vacancy in the office of alternate district associate judge shall not be filled unless the conditions of subsection 1 are satisfied after the vacancy occurs.

4. The chief judge of the judicial district may order that the alternate temporary-

ly sit in place of the regular district associate judge while the latter is unable to act. The words "unable to act" mean a temporary absence from court duties, including a reasonable vacation period.

5. The appointment of an alternate district associate judge does not affect the rights, duties, or remuneration of the regularly appointed district associate judge, and the appointment of an alternate does not affect the number or apportionment of district associate judges authorized by this part.

(83 Acts, ch 186, § 7303, 10201) SF 495

NEW section

602.6304 Appointment of district associate judges.

1. The district associate judges authorized by sections 602.6301, 602.6302, and 602.6303 shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission.

2. In November of any year in which an impending vacancy is created because a district associate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of district associate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a district associate judge, or by an increase in the number of positions authorized.

4. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of district associate judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

5. The supreme court may prescribe rules of procedure to be used by county magistrate appointing commissions when exercising the duties specified in this section.

(83 Acts, ch 186, § 7304, 10201) SF 495

NEW section

602.6305 Term, retention, qualifications.

1. District associate judges shall serve initial terms and shall stand for retention in office within the judicial election districts of their residences at the judicial election in 1982 and every four years thereafter, under sections 46.17 to 46.24.

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of application a resident of the county in which the vacancy exists, and unless the person is licensed to practice law in Iowa, and unless the person will be able, measured by the person's age at the time of appointment, to complete the initial term of office plus a four-year term of office prior to reaching age seventy-two.

3. A district associate judge must be a resident of the county in which the office is held during the entire term of office. A district associate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. District associate judges shall qualify for office as provided in chapter 63 for district judges.

(83 Acts, ch 186, § 7305, 10201) SF 495
NEW section

602.6306 Jurisdiction, procedure, appeals.

1. District associate judges have the jurisdiction provided in section 602.6405 for magistrates, and when exercising that jurisdiction shall employ magistrates' practice and procedure.

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed three thousand dollars, jurisdiction of indictable misdemeanors, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

3. When a district judge is unable to serve as a result of temporary incapacity, a district associate judge may, by order of the chief judge of the judicial district enrolled in the records of the clerk of the district court, temporarily exercise any judicial authority within the jurisdiction of a district judge during the time of incapacity with respect to the matters or classes of matters specified in that order.

4. Appeals from judgments or orders of district associate judges while exercising the jurisdiction of magistrates shall be governed by the laws relating to appeals from judgments and orders of magistrates. Appeals from judgments or orders of district associate judges while exercising any other jurisdiction shall be governed by the laws relating to appeals from judgments or orders of district judges.

(83 Acts, ch 186, § 7306, 10201) SF 495
NEW section

PART 4 MAGISTRATES

602.6401 Number and apportionment.

1. One hundred ninety-one magistrates shall be apportioned among the counties as provided in this section. Magistrates appointed pursuant to section 602.6402 shall not be counted for purposes of this section.

2. During February of each odd-numbered year, the state court administrator shall apportion magistrate offices among the counties in accordance with the following criteria:

a. The number and type of proceedings contained in the administrative reports required by section 602.6606.

b. The existence of either permanent, temporary, or seasonal populations not included in the current census figures.

c. The geographical area to be served.

d. Any inordinate number of cases over which magistrates have jurisdiction that were pending at the end of the preceding year.

e. The number and types of juvenile proceedings handled by district associate judges.

3. Notwithstanding subsection 2, each county shall be allotted at least one resident magistrate.

4. During March of each odd-numbered year, the state court administrator shall give notice to the clerks of the district court and to the chief judges of the judicial districts of the number of magistrates to which each county is entitled.

(83 Acts, ch 186, § 7401, 10201) SF 495

NEW section

602.6402 Additional magistrate allowed. In those counties which are allotted one magistrate under section 602.6401 or which are restricted to one magistrate by section 602.6302, the county magistrate appointing commission may, by majority vote, decide to appoint one additional magistrate. If a county appoints an additional magistrate under this section, each of the two magistrates shall receive one-half of the regular salary of a magistrate.

(83 Acts, ch 186, § 7402, 10201) SF 495

NEW section

602.6403 Appointment and qualification of magistrates.

1. In April of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, and may appoint an additional magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

2. The magistrate appointing commission for each county shall prescribe the contents of an application for an appointment pursuant to this section. The commission shall publicize notice of any vacancy to be filled in at least two publications in the official county newspaper. The commission shall accept applications for a minimum of fifteen days prior to making an appointment, and shall make available during that period of time any printed application forms the commission prescribes.

3. Within thirty days following receipt of notification of a vacancy in the office of magistrate, the commission shall appoint a person to the office to serve the remainder of the unexpired term. For purposes of this section, vacancy means a death, resignation, retirement, or removal of a magistrate, or an increase in the number of positions authorized.

4. The term of office of a magistrate is two years, commencing July 1 of each odd-numbered year.

5. The commission shall promptly certify the names and addresses of appointees to the clerk of the district court and to the chief judge of the judicial district. The clerk of the district court shall certify to the state court administrator the names and addresses of these appointees.

6. Before assuming office, a magistrate shall subscribe and file in the office of the state court administrator the oath of office specified in section 63.6.

7. Annually, the state court administrator shall cause a school of instruction to be conducted for magistrates, and each magistrate shall attend prior to the time of taking office unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.

(83 Acts, ch 186, § 7403, 10201) SF 495

NEW section

602.6404 Qualifications.

1. A magistrate shall be an elector of the county of appointment during the magistrate's term of office. A magistrate shall serve within the judicial district in which appointed, as directed by the chief judge, provided that the chief judge may assign a magistrate to hold court outside of the county of the magistrate's residence only if it is necessary for the orderly administration of justice. A magistrate is subject to reassignment under section 602.6108.

2. A person is not qualified for appointment as a magistrate unless the person can complete the entire term of office prior to reaching age seventy-two.

3. A person is not required to be admitted to the practice of law in this state as a condition of being appointed to the office of magistrate, but the magistrate appointing commission shall first consider applicants who are admitted to practice law in this state when selecting persons for the office of magistrate.

(83 Acts, ch 186, § 7404, 10201) SF 495

NEW section

602.6405 Jurisdiction — procedure.

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. They also have jurisdiction of first offense violations of section 321.281 but only to the extent that they may approve trial informations, conduct arraignments, accept guilty pleas if the defendant is represented by legal counsel, sentence those pleading guilty and make appropriate orders authorized by section 321.283.

2. The criminal procedure before magistrates is as provided in chapters 804, 806, 808, 811, 820 and 821 and rules of criminal procedure 1, 2, 5, 7, 8, and 32 to 56. The civil procedure before magistrates shall be as provided in chapters 631 and 648.

(83 Acts, ch 186, § 7405, 10201) SF 495

NEW section

PART 5

MAGISTRATE APPOINTING COMMISSIONS

602.6501 Composition of county magistrate appointing commissions.

1. A magistrate appointing commission is established in each county. The commission shall be composed of the following members:

a. A district judge designated by the chief judge of the judicial district to serve until a successor is designated.

b. Three members appointed by the board of supervisors, or the lesser number provided in section 602.6503, subsection 1.

c. Two attorneys elected by the attorneys in the county, or the lesser number provided in section 602.6504, subsection 1.

2. The clerk of the district court shall maintain a permanent record of the name, address, and term of office of each commissioner.

3. A member of a magistrate appointing commission shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of official duties. Reimbursements are payable out of the court expense fund of the county in which the member serves, upon certification of the expenses to the county auditor by the clerk of the district court. The district judges of each judicial district may prescribe rules for the administration of this subsection.

(83 Acts, ch 186, § 7501, 10201) SF 495

NEW section

602.6502 Member of commission not to be appointed to office. A member of a county magistrate appointing commission shall not be appointed to the office of magistrate, and shall not be nominated for or appointed to the office of district associate judge.

(83 Acts, ch 186, § 7502, 10201) SF 495

NEW section

602.6503 Commissioners appointed by a county.

1. The board of supervisors of each county shall appoint three electors to the magistrate appointing commission for the county for six-year terms beginning January 1, 1979 and each sixth year thereafter. However, if there is only one attorney elected pursuant to section 602.6504, the county board of supervisors shall only appoint two commissioners, and if no attorney is elected, the board of supervisors shall only appoint one commissioner.

2. The board of supervisors shall not appoint an attorney or an active law enforcement officer to serve as a commissioner.

3. The county auditor shall certify to the clerk of the district court the name, address, and expiration date of term for all appointees of the board of supervisors.

(83 Acts, ch 186, § 7503, 10201) SF 495
NEW section

602.6504 Commissioners elected by attorneys.

1. The resident attorneys of each county shall elect two resident attorneys of the county to the magistrate appointing commission for six-year terms beginning on January 1, 1979, and each sixth year thereafter. An election shall be held in December preceding the commencement of new terms. The attorneys in a county may elect only one commissioner if there is only one who is qualified and willing to serve and if there are no resident attorneys in a county or none is willing to serve as a commissioner, none shall be elected.

2. A county attorney shall not be elected to the commission.

3. An attorney is eligible to vote in elections of magistrate appointing commissioners within a county if eligible to vote under sections 46.7 and 46.8, and if a resident of the county.

4. When an election of magistrate appointing commissioners is to be held, the clerk of the district court for each county shall cause to be mailed to each eligible attorney a ballot that is in substantially the following form:

BALLOT

County Magistrate Appointing Commission

To be cast by the resident members of the bar of county.

Vote for (state number) for county judicial magistrate appointing commissioner(s) for term commencing.....

.....
.....

To be counted, this ballot must be completed and mailed or delivered to clerk of the district court,, no later than December 31, 19..... (or the appropriate date in case of an election to fill a vacancy).

(83 Acts, ch 186, § 7504, 10201) SF 495
NEW section

602.6505 Vacancy. A vacancy in the office of magistrate appointing commissioner shall be filled for the unexpired term in the same manner as the original appointment was made.

(83 Acts, ch 186, § 7505, 10201) SF 495
NEW section

PART 6

DISTRICT COURT ADMINISTRATION

602.6601 Court attendants.

1. The district court administrator of each judicial district shall employ and supervise court attendants as authorized by the chief judge.

2. A court attendant shall assist judicial officers during proceedings in court and shall perform other duties as prescribed by the supreme court or by the chief judge of the judicial district.

(83 Acts, ch 186, § 7601, 10201) SF 495
Certain bailiffs employed as court attendants; § 602.11101, 602.11113
NEW section

602.6602 Referees and special masters. A person who is appointed as a referee or special master, or who otherwise is appointed by a court pursuant to law or court rule to exercise a judicial function, is subject to the supervision of the judicial officer making the appointment.

(83 Acts, ch 186, § 7602, 10201) SF 495

NEW section

602.6603 Court reporters.

1. Each district judge shall appoint a court reporter who shall, upon the request of a party in a civil or criminal case, report the evidence and proceedings in the case, and perform all duties as provided by law.

2. Each district associate judge may appoint a court reporter, subject to the approval of the chief judge of the judicial district.

3. If a district judge determines that it is necessary to employ an additional court reporter because of an extraordinary volume of work, or because of the temporary illness or incapacity of a regular court reporter, the district judge may appoint a temporary court reporter who shall serve as required by the district judge.

4. If a regularly appointed court reporter becomes disabled, the judge may appoint a competent substitute to act during the disability of the regular reporter or until a successor is appointed, but a substitute shall not act for a period longer than one year unless the substitute is or becomes a certified shorthand reporter within that one year, and a substitute shall not be reappointed at the end of the one-year period unless the substitute is or becomes a certified shorthand reporter within that one year.

5. Except as provided in subsection 4, a person shall not be appointed to the position of court reporter of the district court unless the person has been certified as a shorthand reporter by the board of examiners under article 3.

6. Each court reporter shall take an oath faithfully to perform the duties of office, which shall be filed in the office of the clerk of district court.

7. A court reporter may be removed for cause with due process by the judicial officer making the appointment.

(83 Acts, ch 186, § 7603, 10201) SF 495

NEW section

602.6604 Dockets.

1. The clerk of the district court shall furnish a magistrate, district associate judge, or district judge acting as a magistrate, with a docket in which the officer shall enter all proceedings except small claims. The docket shall be indexed and shall contain for each case the title and nature of the action, the place of hearing, appearances, and notations of the documents filed with the judicial officer, the proceedings in the case and orders made, the verdict and judgment including costs, any satisfaction of the judgment, whether the judgment was certified to the clerk of the district court, whether an appeal was taken, and the amount of any appeal bond.

2. The chief judge of a judicial district may order that criminal proceedings which are within the jurisdictions of magistrates and district associate judges be combined into centralized dockets for the county if the chief judge determines that administration could be improved by this procedure. When so ordered, a centralized docket shall be maintained in lieu of individual dockets, and the clerk of the district court shall compile a centralized docket in the manner prescribed for an individual docket. The chief judge may assign actions and proceedings on centralized dockets to judicial officers having jurisdiction as the chief judge deems necessary.

(83 Acts, ch 186, § 7604, 10201) SF 495

NEW section

602.6605 Funds, reports. Each magistrate, and each district associate judge and district judge acting as a magistrate, shall file once each month with the clerk of the district court an itemized statement of all cases disposed of and all funds received and disbursed per case, and at least monthly shall remit all funds received to the clerk. The clerk shall provide adequate clerical assistance to judicial officers to carry out this section.

(83 Acts, ch 186, § 7605, 10201) SF 495

NEW section

602.6606 Administrative reports. Each magistrate, and each district associate judge and district judge acting as a magistrate, shall report all judicial business handled to the clerk of the district court and to the chief judge of the judicial district. Reports shall be in the form and filed at the times prescribed by the state court administrator. The administrator may require the clerk to forward copies of individual reports or require a consolidated report for the county.

(83 Acts, ch 186, § 7606, 10201) SF 495

NEW section

602.6607 Control of records — vacancies. Whenever a magistrate, or a district associate judge or district judge acting as a magistrate, leaves office, all funds, dockets, and records relating to the vacated office shall be delivered by the judicial officer to the clerk who issued the docket.

(83 Acts, ch 186, § 7607, 10201) SF 495

NEW section

PART 7

SPECIAL PROVISIONS

602.6701 Circuit court records.

1. The district court shall succeed to and have jurisdiction over the records of the circuit court, and may enforce all judgments, decrees, and orders of the circuit court in the same manner and to the same extent as it exercises jurisdiction over its own records, and, for the purposes of the issuance of process and any other acts necessary to the enforcement of the orders, judgments, and decrees of the circuit court, the records of the circuit court shall be deemed records of the district court.

2. Transcripts and process from the judgments, decrees, and records of the circuit court shall be issued by the clerk of the district court, and under the seal of the clerk's office.

(83 Acts, ch 186, § 7701, 10201) SF 495

NEW section

602.6702 Counties bordering on Missouri river. The jurisdiction of the courts of the state in all civil and criminal actions and proceedings, shall extend in counties bordering on the Missouri river to the boundary of the state as provided in the compact with the state of Nebraska, and to all lands and territory lying along the river which have been adjudged by the United States supreme court or the supreme court of this state to be within the state of Iowa, and to the other lands and territory along the river over which the courts of this state have exercised jurisdiction.

(83 Acts, ch 186, § 7702, 10201) SF 495

NEW section

ARTICLE 7

JUVENILE COURT

PART 1

THE COURT

602.7101 Juvenile court.

1. A juvenile court is established in each county. The juvenile court is within the district court and has the jurisdiction provided in chapter 232.

2. The jurisdiction of the juvenile court may be exercised by any district judge, and by any district associate judge who is designated by the chief judge as a judge of the juvenile court.

3. The chief judge shall designate one or more of the district judges and district associate judges to act as judges of the juvenile court for a county. The chief judge may designate a juvenile court judge to preside in more than one county.

4. The designation of a judicial officer as a juvenile court judge does not deprive the officer of other judicial functions. Any district judge may act as a juvenile court judge during the absence or inability to act, or upon the request, of the designated juvenile court judge.

5. The juvenile court is always open for the transaction of business, but the hearing of a matter that requires notice shall be had at a time and place fixed by the juvenile court judge.

(83 Acts, ch 186, § 8101, 10201) SF 495

NEW section

602.7102 Court records.

1. The juvenile court is a court of record, and its proceedings, orders, findings, and decisions shall be entered in books that are kept for that purpose and that are identified as juvenile court records.

2. The clerk of the district court is the clerk of the juvenile court for the county.

3. The clerk shall, if practicable, notify a convenient juvenile court officer in advance when a child is to be brought before the court.

(83 Acts, ch 186, § 8102, 10201) SF 495

NEW section

602.7103 Referee — procedure.

1. The judge of the juvenile court may appoint and may remove for cause with due process a juvenile court referee. The referee shall be an attorney admitted to practice law in this state, and shall be qualified for duties by training and experience.

2. The referee shall have the same jurisdiction to conduct juvenile court proceedings and to issue orders, findings, and decisions as the judge of the juvenile court, except that the referee shall not issue warrants. However, the appointing judge may limit the referee's exercise of juvenile court jurisdiction.

3. The parties to a proceeding heard by the referee are entitled to a review by the judge of the juvenile court of the referee's order, finding, or decision, if the review is requested within ten days after the entry of the referee's order, finding, or decision. A request for review does not automatically stay the referee's order, finding, or decision. The review is on the record only, unless the judge, upon request or upon the judge's own motion, orders otherwise. In the interests of justice, the judge may allow a rehearing at any time.

(83 Acts, ch 186, § 8103, 10201) SF 495

NEW section

602.7104 Physicians and nurses.

1. In a county having a population of one hundred twenty-five thousand or more, the judges of the juvenile court may appoint a physician and a nurse, prescribe their duties, and remove them.

2. Appointees shall receive salaries and shall be reimbursed for expenses incurred in the performance of duties, as prescribed by the supreme court.

(83 Acts, ch 186, § 8104, 10201) SF 495

NEW section

PART 2

PROBATION AND COURT SERVICES

602.7201 Administration and supervision.

1. Probation and other juvenile court services within a judicial district shall be administered and supervised by the chief juvenile court officer.

2. The juvenile court officers and other personnel employed in juvenile court service offices are subject to the supervision of the chief juvenile court officer.

3. The chief juvenile court officer may employ, shall supervise, and may remove for cause with due process secretarial, clerical, and other staff within juvenile court service offices as authorized by the chief judge.

(83 Acts, ch 186, § 8201, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.7202 Juvenile court officers.

1. Subject to the approval of the chief judge of the judicial district, the chief juvenile court officer shall appoint juvenile court officers to serve the juvenile court. Juvenile court officers may be required to serve in two or more counties within the judicial district.

2. Juvenile court officers shall be selected, appointed, and removed in accordance with rules, standards, and qualifications prescribed by the supreme court.

3. Juvenile court officers have the duties prescribed in chapter 232, subject to the direction of the judges of the juvenile court. A judge of the juvenile court shall not attempt to direct or influence a juvenile court officer in the performance of the officer's duties.

4. A juvenile court officer has the powers of a peace officer while engaged in the discharge of duties.

(83 Acts, ch 186, § 8202, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

ARTICLE 8

CLERK OF DISTRICT COURT

602.8101 Office of the clerk of the district court.

1. The office of clerk of the district court is an appointive office, as provided in section 602.1215.

2. A person appointed to the office of clerk shall qualify by taking the oath of office as provided in section 63.10 and giving bond as provided in chapter 64.

3. The clerk may employ deputies, assistants, and clerks when authorized under section 602.1402 and when authorized by the chief judge of the judicial district. The clerk is responsible for the acts of these employees. Each first deputy shall give bond as provided in chapter 64.

(83 Acts, ch 186, § 9101, 10201) SF 495

Transition provisions; see article 11, § 602.11101—602.11114

NEW section

602.8102 General duties. The clerk shall:

1. Keep the office of the clerk at the county seat.

2. Attend sessions of the district court.

3. Keep the records, papers, and seal, and record the proceedings of the district court as provided by law under the direction of the chief judge of the judicial district.

4. Upon the death of a judge of the district court, give written notice to the state comptroller of the date of death. The clerk shall also give written notice of the death of a justice of the supreme court or a judge of the court of appeals or the district court who resides in the clerk's county to the state commissioner of elections, as provided in section 46.12.

5. When money in the amount of five hundred dollars or more is paid to the clerk

to be paid to another person and the money is not disbursed within thirty days, notify the person who is entitled to the money or for whose account the money is paid or the attorney of record of the person. The notice shall be given by certified mail within forty days of the receipt of the money to the last known address of the person or the person's attorney and a memorandum of the notice shall be made in the proper record. If the notice is not given, the clerk and the clerk's sureties are liable for interest at the rate specified in section 535.2, subsection 1 on the money from the date of receipt to the date that the money is paid to the person entitled to it or the person's attorney.

6. On each process issued, indicate the date that it is issued, the clerk's name who issued it, and the seal of the court.

7. Upon return of an original notice to the clerk's office, enter in the appearance or combination docket information to show which parties have been served the notice and the manner and time of service.

8. When entering a lien or indexing an action affecting real estate in the clerk's office, enter the year, month, day, hour, and minute when the entry is made. The clerk shall mail a copy of a mechanic's lien to the owner of the building, land, or improvement which is charged with the lien as provided in section 572.8.

9. Enter in the appearance docket a memorandum of the date of filing of all petitions, demurrers, answers, motions, or papers of any other description in the cause. A pleading of any description is not considered filed in the cause or taken from the clerk's office until the memorandum is made. The memorandum shall be made before the end of the next working day. Thereafter, when a demurrer or motion is sustained or overruled, a pleading is made or amended, or the trial of the cause, rendition of the verdict, entry of judgment, issuance of execution, or any other act is done in the progress of the cause, a similar memorandum shall be made of the action, including the date of action and the number of the book and page of the record where the entry is made. The appearance docket is an index of each suit from its commencement to its conclusion.

10. When title to real estate is finally established in a person by a judgment or decree of the district court or by decision of an appellate court or when the title to real estate is changed by judgment, decree, will, proceeding, or order in probate, certify the final decree, judgment, or decision under seal of the court to the auditor of the county in which the real estate is located.

11. Keep for public inspection a certified copy of each act of the general assembly and furnish a copy of the act upon payment of a fee as provided in section 3.15.

12. At the order of a justice of the supreme court, docket without fee any civil or criminal case transferred from a military district under martial law as provided in section 29A.45.

13. Carry out duties as a member of a nominations appeal commission as provided in section 44.7.*

14. Maintain a bar admission list as provided in section 46.8.

15. Notify the county commissioner of registration of persons who become ineligible to register to vote because of criminal convictions, mental retardation, or legal declarations of incompetency and of persons whose citizenship rights have been restored as provided in section 48.30.

16. When the auditor is a party to an election contest, carry out duties on behalf of the auditor and issue subpoenas as provided in sections 62.7 and 62.11.

17. Approve the bonds of the members of the board of supervisors as provided in section 64.19.

18. File the bonds and oaths of the members of the board of supervisors as provided in section 64.23.

19. Keep a book of the record of official bonds and record the official bonds of magistrates as provided in section 64.24.

20. Carry out duties relating to proceedings for the removal of a public officer as provided in sections 66.4 and 66.17.

21. Approve the surety bonds of persons accepting appointment as notaries public in the county as provided in section 77.4, subsection 2.

22. Carry out duties as a trustee for incompetent dependents entitled to benefits under chapters 85 and 85A and report annually to the district court concerning money and property received or expended as a trustee as provided under sections 85.49 and 85.50.

23. Carry out duties relating to enforcing orders of the occupational safety and health review commission as provided in section 88.9, subsection 2.

24. Certify the imposition of a mulct tax against property creating a public nuisance to the auditor as provided in section 99.28.

25. Carry out duties relating to the judicial review of orders of the occupational safety and health review commission as provided in section 104.10, subsection 2.

26. With sufficient surety, approve an appeal bond for judicial review of an order or action of the state conservation commission relating to dams and spillways as provided in section 112.8.

27. Docket an appeal from the fence viewer's decision or order as provided in section 113.23.

28. Certify to the recorder the fact that a judgment has been rendered upon an appeal of a fence viewer's order as provided in section 113.24.

29. Hold as a public record a list of the names and addresses of persons licensed as real estate salespersons and brokers and the name of persons whose licenses were suspended or revoked during the year reported as provided in section 117.42.

30. Approve bond sureties and enter in the lien index the undertakings of bonds for abatement relating to the illegal manufacture, sale, or consumption of alcoholic liquors as provided in sections 123.76, 123.79, and 123.80.

31. Carry out duties relating to a judgment of forfeiture ordering the sale or other disposition of a conveyance used in the illegal transportation of liquor or distribution of a controlled substance as provided in chapter 127.

32. Carry out duties as county registrar of vital statistics as provided in chapter 144.

33. Furnish to the state department of health a certified copy of a judgment suspending or revoking a professional license as provided in section 147.66.

34. Receive and file a bond given by the owner of a distrained animal to secure its release pending resolution of a suit for damages as provided in sections 188.22 and 188.23.

35. Send notice of the conviction, judgment, and sentence of a person violating the uniform controlled substances laws to the state board or officer who issued a license or registered the person to practice a profession or to conduct business as provided in section 204.412.

36. Carry out duties relating to the commitment of a mentally retarded person as provided in sections 222.37 through 222.40.

37. Keep a separate docket of proceedings of cases relating to the mentally retarded as provided in section 222.57.

38. Order the commitment of a voluntary public patient to the state psychiatric hospital under the circumstances provided in section 225.16.

39. Refer persons applying for voluntary admission to a community mental health center for a preliminary diagnostic evaluation as provided in section 225C.16, subsection 2.

40. Make a copy of the warrant and return of service submitted by the sheriff relating to the return of a mental patient from a state hospital to stand trial and mail the warrant and return to the superintendent of the hospital as provided in section 226.28.

41. Carry out duties relating to the involuntary commitment of mentally impaired persons as provided in chapter 229.

42. Serve as clerk of the juvenile court and carry out duties as provided in chapter 232 and article 8.

43. Submit to the director of the division of child and family services of the department of human services a duplicate of the findings of the district court related to adoptions as provided in section 235.3, subsection 7.

44. Certify to the warden of the penitentiary or men's reformatory or to the superintendent of the Iowa correctional institution for women the number of days that have been credited toward completion of an inmate's sentence as provided in section 246.38.

45. Report to the board of parole and the director of the Iowa department of corrections the criminal statistics as provided in sections 247.29 through 247.31.

46. Carry out duties relating to the pardons, commutations, remission of fines and forfeitures, and restoration of citizenship as provided in sections 248.9 and 248.17.

47. Forward support payments received under section 252A.6 to the department of human services and furnish copies of orders and decrees awarding support to parties receiving welfare assistance as provided in section 252A.13.

48. Carry out duties relating to the provision of medical care and treatment for indigent persons as provided in chapter 255.

49. Enter a judgment based on the transcript of an appeal to the state board of public instruction against the party liable for payment of costs as provided in section 290.4.

50. Certify the final order of the district court upon appeal of an assessment within a secondary road assessment district to the auditor as provided in section 311.24.

51. Forward to the department of transportation a copy of the record of each conviction or forfeiture of bail of a person charged with the violation of the laws regulating the operation of vehicles on public roads as provided in sections 321.281 and 321.491.

52. Send to the department of transportation licenses and permits surrendered by a person convicted of being a habitual offender of traffic and motor vehicle laws as provided in section 321.559.

53. If a person fails to satisfy a judgment relating to motor vehicle financial responsibility within sixty days, forward to the director of the department of transportation a certified copy of the judgment as provided in section 321A.12.

54. Approve a bond of a surety company or a bond with at least two individual sureties owning real estate in this state as proof of financial responsibility as provided in section 321A.24.

55. Carry out duties under the Iowa motor vehicle dealers licensing Act as provided in sections 322.10 and 322.24.

56. Carry out duties relating to the enforcement of motor fuel tax laws as provided in sections 324.66 and 324.67.

57. Carry out duties relating to the platting of land as provided in sections 409.9, 409.11, and 409.22.

58. Upon order of the director of revenue, issue a commission for the taking of depositions as provided in section 421.17, subsection 8.

59. Mail to the director of revenue a copy of a court order relieving an executor or administrator from making an income tax report on an estate as provided in section 422.23.

60. With acceptable sureties, approve the bond of a petitioner for a tax appeal as provided in section 422.29, subsection 2.

61. Certify the final decision of the district court in an appeal of the tax assessments as provided in section 441.39. Costs of the appeal to be assessed against the board of review or a taxing body shall be certified to the treasurer as provided in section 441.40.

62. Certify a final order of the district court relating to the apportionment of tax receipts to the auditor as provided in section 449.7.

63. Carry out duties relating to the inheritance tax as provided in chapter 450.
64. Deposit funds held by the clerk in an approved depository as provided in section 453.1.
65. Carry out duties relating to appeals and certification of costs relating to levee and drainage districts as provided in sections 455.96 through 455.105.
66. Carry out duties relating to the condemnation of land as provided in chapter 472.
67. Forward civil penalties collected for violations relating to the siting of electric power generators to the treasurer of state as provided in section 476A.14, subsection 1.
68. Certify a copy of a decree of dissolution of a business corporation to the secretary of state and the recorder of the county in which the corporation is located as provided in section 496A.100.
69. With acceptable sureties, approve the bond of a petitioner filing an appeal for review of an order of the commissioner of insurance as provided in section 502.606 or 507A.7.
70. Certify a copy of a decree of dissolution of a nonprofit corporation to the secretary of state and the recorder in the county in which the corporation is located as provided in section 504A.62.
71. Carry out duties relating to the enforcement of decrees and orders of reciprocal states under the Iowa unauthorized insurers Act as provided in section 507A.11.
72. Certify copies of a decree of involuntary dissolution of a state bank to the secretary of state and the recorder of the county in which the bank is located as provided in section 524.1311, subsection 4.
73. Certify copies of a decree dissolving a credit union as provided in section 533.21, subsection 4.
74. Refuse to accept the filing of papers to institute legal action under the Iowa consumer credit code if proper venue is not adhered to as provided in section 537.5113.
75. Receive payment of money due to a person who is absent from the state if the address or location of the person is unknown as provided in section 538.5.
76. Carry out duties relating to the appointment of the Iowa state commerce commission as receiver for agricultural commodities on behalf of a warehouse operator whose license is suspended or revoked as provided in section 543.3.
77. Certify the signature of the recorder on the transcript of any instrument affecting real estate as provided in section 558.12.
78. Certify an acknowledgment of a written instrument relating to real estate as provided in section 558.20.
79. Collect on behalf of, and pay to the auditor the fee for the transfer of real estate as provided in section 558.66.
80. With acceptable sureties, endorse a bond sufficient to settle a dispute between adjoining owners of a common wall as provided in section 563.11.
81. Carry out duties relating to cemeteries as provided in sections 566.4, 566.7, and 566.8.
82. Carry out duties relating to liens as provided in chapters 570, 571, 572, 574, 580, 581, 582, and 584.
83. Accept applications for and issue marriage licenses as provided in chapter 595.
84. Carry out duties relating to the dissolution of a marriage as provided in chapter 598.
85. Carry out duties relating to the custody of children as provided in chapter 598A.
86. Carry out duties relating to adoptions as provided in chapter 600.
87. Enter upon the clerk's records actions taken by the court at a location which is not the county seat as provided in section 602.6106.

88. Maintain a record of the name, address, and term of office of each member of the county magistrate appointing commission as provided in section 602.6501.

89. Certify to the state court administrator the names and addresses of the magistrates appointed by the county magistrate appointing commission as provided in section 602.6403.

90. Furnish an individual or centralized docket for the magistrates of the county as provided in section 602.6604.

91. Serve as an ex officio jury commissioner and notify appointive commissioners of their appointment as provided in sections 608.1 and 608.5.

92. Carry out duties relating to the selection of jurors as provided in chapter 609.

93. Carry out duties relating to the revocation or suspension of an attorney's authority to practice law as provided in article 10 of this chapter.

94. File and index petitions affecting real estate as provided in sections 617.10 through 617.15.

95. Designate the newspapers in which the notices pertaining to the clerk's office shall be published as provided in section 618.7.

96. With acceptable surety, approve a bond of the plaintiff in an action for the payment of costs which may be adjudged against the plaintiff as provided in section 621.1.

97. Issue subpoenas for witnesses as provided in section 622.63.

98. Carry out duties relating to trials and judgments as provided in sections 624.8 through 624.21 and 624.37.

99. Collect jury fees and court reporter fees as required by chapter 625.

100. When the judgment is for recovery of money, compute the interest from the date of verdict to the date of payment of the judgment as provided in section 625.21.

101. Carry out duties relating to executions as provided in chapter 626.

102. Carry out duties relating to the redemption of property as provided in sections 628.13, 628.18, and 628.20.

103. Record statements of expenditures made by the holder of a sheriff's sale certificate in the encumbrance book and lien index as provided in section 629.3.

104. Carry out duties relating to small claim actions as provided in chapter 631.

105. Carry out duties of the clerk of the probate court as provided in chapter 633.

106. Carry out duties relating to the administration of small estates as provided in sections 635.1, 635.7, 635.9, and 635.11.

107. Carry out duties relating to the attachment of property as provided in chapter 639.

108. Carry out duties relating to garnishment as provided in chapter 642.

109. With acceptable surety, approve bonds of the plaintiff desiring immediate delivery of the property in an action of replevin as provided in sections 643.7 and 643.12.

110. Carry out duties relating to the disposition of lost property as provided in chapter 644.

111. Carry out duties relating to the recovery of real property as provided in section 646.23.

112. Endorse the court's approval of a restored record as provided in section 647.3.

113. When a judgment of foreclosure is entered, file with the recorder an instrument acknowledging the foreclosure and the date of decree and upon payment of the judgment, file an instrument with the recorder acknowledging the satisfaction as provided in sections 655.4 and 655.5.

114. Carry out duties relating to the issuance of a writ of habeas corpus as provided in sections 663.9, 663.43, and 663.44.

115. Accept and docket an application for postconviction review of a conviction as provided in section 663A.3.

116. Report all fines, forfeited recognizances, penalties, and forfeitures as provided in section 602.8106, subsection 3 and section 666.6.

117. Issue a warrant for the seizure of a boat or raft as provided in section 667.2.
118. Carry out duties relating to the changing of a person's name as provided in chapter 674.
119. Notify the state registrar of vital statistics of a judgment determining the paternity of an illegitimate child as provided in section 675.36.
120. Enter a judgment made by confession and issue an execution of the judgment as provided in section 676.4.
121. With acceptable surety, approve the bond of a receiver as provided in section 680.3.
122. Carry out duties relating to the assignment of property for the benefit of creditors as provided in chapter 681.
123. Carry out duties relating to the certification of surety companies and the investment of trust funds as provided in chapter 682.
124. Maintain a separate docket for petitions requesting that the record and evidence in a judicial review proceeding be closed as provided in section 692.5.
125. Furnish a disposition of each criminal complaint or information filed in the district court to the department of public safety as provided in section 692.15.
126. Carry out duties relating to the issuance of warrants to persons who fail to appear to answer citations as provided in section 805.5.
127. Provide for a traffic and scheduled violations office for the district court and service the locked collection boxes at weigh stations as provided in section 805.7.
128. Issue a summons to corporations to answer an indictment as provided in section 807.5.
129. Carry out duties relating to the disposition of seized property as provided in sections 809.2 and 809.3.
130. Docket undertakings of bail as liens on real estate and enter them upon the lien index as provided in section 811.4.
131. Hold the amount of forfeiture and judgment of bail in the clerk's office for sixty days as provided in section 811.6.
132. Carry out duties relating to appeals from the district court as provided in chapter 814.
133. Certify costs and fees payable by the state as provided in section 815.1.
134. Notify the director of the Iowa department of corrections of the commitment of a convicted person as provided in section 901.7.
135. Carry out duties relating to deferred judgments, probations, and restitution as provided in sections 907.4 and 907.8, and chapter 910.
136. Carry out duties relating to the impaneling and proceedings of the grand jury as provided in R.Cr.P. 3, Ia. Ct. Rules, 2nd ed.
137. Issue subpoenas upon application of the prosecuting attorney and approval of the court as provided in R.Cr.P. 5, Ia. Ct. Rules, 2nd ed.
138. Issue summons or warrants to defendants as provided in R.Cr.P. 7, Ia. Ct. Rules, 2nd ed.
139. Carry out duties relating to the change of venue as provided in R.Cr.P. 10, Ia. Ct. Rules, 2nd ed.
140. Issue blank subpoenas for witnesses at the request of the defendant as provided in R.Cr.P. 14, Ia. Ct. Rules, 2nd ed.
141. Carry out duties relating to the entry of judgment as provided in R.Cr.P. 22, Ia. Ct. Rules, 2nd ed.
142. Carry out duties relating to the execution of a judgment as provided in R.Cr.P. 24, Ia. Ct. Rules, 2nd ed.
143. Carry out duties relating to the trial of simple misdemeanors as provided in R.Cr.P. 32 through 56, Ia. Ct. Rules, 2nd ed.
144. Serve notice of an order of judgment entered as provided in R.C.P. 82, Ia. Ct. Rules, 2nd ed.
145. If a party is ordered or permitted to plead further by the court, serve notice to attorneys of record as provided in R.C.P. 86, Ia. Ct. Rules, 2nd ed.

146. Maintain a motion calendar as provided in R.C.P. 117, Ia. Ct. Rules, 2nd ed.
147. Provide notice of a judgment, order, or decree as provided in R.C.P. 120, Ia. Ct. Rules, 2nd ed.
148. Issue subpoenas as provided in R.C.P. 155, Ia. Ct. Rules, 2nd ed.
149. Tax the costs of taking a deposition as provided in R.C.P. 157, Ia. Ct. Rules, 2nd ed.
150. With acceptable sureties, approve a bond filed for change of venue under R.C.P. 167, Ia. Ct. Rules, 2nd ed.
151. Transfer the papers relating to a case transferred to another court as provided in R.C.P. 173, Ia. Ct. Rules, 2nd ed.
152. Maintain a ready calendar list as provided in R.C.P. 181.1, Ia. Ct. Rules, 2nd ed.
153. Assess costs related to a continuance motion as provided in R.C.P. 182, Ia. Ct. Rules, 2nd ed.
154. Carry out duties relating to the impaneling of jurors as provided in R.C.P. 187 through 190, Ia. Ct. Rules, 2nd ed.
155. Furnish a referee, auditor, or examiner with a copy of the order of appointment as provided in R.C.P. 207, Ia. Ct. Rules, 2nd ed.
156. Mail a copy of the referee's, auditor's, or examiner's report to the attorneys of record as provided in R.C.P. 214, Ia. Ct. Rules, 2nd ed.
157. Carry out duties relating to the entry of judgments as provided in R.C.P. 223, 226, 227.1, 228, and 229, Ia. Ct. Rules, 2nd ed.
158. Carry out duties relating to defaults and judgments on defaults as provided in R.C.P. 231, 232, and 233, Ia. Ct. Rules, 2nd ed.
159. Notify the attorney of record if exhibits used in a case are to be destroyed as provided in R.C.P. 253.1, Ia. Ct. Rules, 2nd ed.
160. Docket the request for a hearing on a sale of property as provided in R.C.P. 290, Ia. Ct. Rules, 2nd ed.
161. With acceptable surety, approve the bond of a citizen commencing an action of quo warranto as provided in R.C.P. 300, Ia. Ct. Rules, 2nd ed.
162. Carry out duties relating to the issuance of a writ of certiorari as provided in R.C.P. 306 through 319, Ia. Ct. Rules, 2nd ed.
163. Carry out duties relating to the issuance of an injunction as provided in R.C.P. 320 through 330, Ia. Ct. Rules, 2nd ed.
164. Carry out other duties as provided by law.

(83 Acts, ch 96, § 159, 160) SF 464

*Clerk no longer on commission; 83 Acts, ch 186, § 10016

Department of social services changed to department of human services effective July 1, 1983; division of corrections changed to Iowa department of corrections effective October 1, 1983

(83 Acts, ch 186, § 9102, 10201) SF 495

NEW section

602.8103 General powers. The clerk may:

1. Administer oaths and take affirmations as provided in section 78.1.
2. Reproduce original records of the court by any reasonably permanent legible means including, but not limited to, reproduction by photographing, photostating, microfilming, and computer cards. The reproduction shall include proper indexing. The reproduced record has the same authenticity as the original record.
3. After the original record is reproduced and after approval of a majority of the judges of the district court by court order, destroy the original records including, but not limited to, dockets, journals, scrapbooks, files, and marriage license applications. The order shall state the specific records which are to be destroyed. An original court file shall not be destroyed until after ten years from the date a decree or judgment entry is signed and entered of record and after the contents have been reproduced, but if the matter is dismissed with prejudice before judgment or decree, the original file may be destroyed one year from the date of the dismissal and after its reproduc-

tion is authorized and completed as provided in this subsection. As used in this subsection and subsection 4, "destroy" includes the transmission of the original records which are of general historical interest to any recognized historical society or association.

4. Destroy the following original records without prior court order or reproduction except as otherwise provided in this subsection:

a. Records including, but not limited to, dockets, journals, scrapbooks, and files including court reporters' notes, forty years after final disposition of the case. However, judgments, decrees, stipulations, records in criminal proceedings, probate records, and orders of court shall not be destroyed unless they have been reproduced as provided in subsection 2.

b. Administrative records, after five years, including, but not limited to, warrants, subpoenas, clerks' certificates, statements, praecipes, and depositions.

c. Records, dockets, and court files of civil and criminal actions heard in the municipal court which were transferred to the clerk, other than juvenile and adoption proceedings, after a period of twenty years from the date of filing of the actions.

d. Original court files on dissolutions of marriage, one year after dismissal by the parties or under R.C.P. 215, Ia. Ct. Rules, 2nd ed.

e. Small claims files, one year after dismissal with or without prejudice.

f. Uniform traffic citations in the magistrate court or traffic and scheduled violations office, one year after final disposition.

5. Invest money which is paid to the clerk to be paid to any other person in a savings account of a supervised financial organization as defined in section 537.1301, subsection 41, except a credit union operating pursuant to chapter 533. The provisions of chapter 453 relating to the deposit and investment of public funds apply to the deposit and investment of the money except that a supervised financial organization other than a credit union may be designated as a depository and the money shall be available upon demand. The interest earnings shall be paid into the general fund of the state, except as otherwise provided by law.

(83 Acts, ch 186, § 9103, 10201) SF 495

NEW section

602.8104 Records and books.

1. The records of the court consist of the original papers filed in all proceedings.

2. The following books shall be kept by the clerk:

a. A record book which contains the entries of the proceedings of the court and which has an index referring to each proceeding in each cause under the names of the parties, both plaintiff and defendant, and under the name of each person named in either party.

b. A judgment docket which contains an abstract of the judgments having separate columns for the names of the parties, the date of the judgment, the damages recovered, costs, the date of the issuance and return of executions, the entry of satisfaction, and other memoranda. The docket shall have an index containing the information specified in paragraph "a".

c. A fee book in which is listed in detail the costs and fees in each action or proceeding under the title of the action or proceeding. The fee book shall also have an index containing the information specified in paragraph "a".

d. A sale book in which the following matters relating to a judgment under which real property is sold, are entered after the return of execution:

- (1) The title of the action.
- (2) The date of judgment.
- (3) The amount of damages recovered.
- (4) The total amount of costs.
- (5) The officer's return in full.

The sale book shall have an index containing the information specified in paragraph "a".

e. An encumbrance book in which the sheriff shall enter a statement of the levy of each attachment on real estate.

f. An appearance docket in which the titles of all actions or special proceedings shall be entered. The actions or proceedings shall be numbered consecutively in the order in which they commence and shall include the full names of the parties, plaintiffs and defendants, as contained in the petition or as subsequently made parties by a pleading, proceeding, or order. The entries provided for in this paragraph and paragraphs "b" and "c" may be combined in one book, the combination docket, which shall also have an index containing the information specified in paragraph "a".

g. A lien book in which an index of all liens in the court are kept.

h. A record of official bonds as provided in section 64.24.

i. An inheritance tax and lien book as provided in section 450.13.

j. A cemetery record as provided in section 566.4.

k. A hospital lien docket as provided in section 582.4.

l. A marriage license book as provided in section 595.6.

m. A book of surety company certificates and revocations as provided in section 682.13.

n. A book in which the deposits of funds, money, and securities kept by the clerk are recorded as provided in section 682.37.

(83 Acts, ch 186, § 9104, 10201) SF 495

NEW section

602.8105 Fees — collection and disposition.

1. The clerk shall collect the following fees:

a. For filing a petition, appeal, or writ of error and docketing them, thirty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and thirty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

b. For payment in advance of various services and docketing procedures, excluding small claims, twenty-five dollars.

c. In small claims actions, in addition to the filing fee specified in section 631.6, the following fees shall be charged for the following services:

(1) For a cause tried by the court, two dollars and fifty cents.

(2) For an equity case, three dollars.

(3) For an injunction or other extraordinary process or order, five dollars.

(4) For a cause continued on application of a party by affidavit, two dollars.

(5) For a continuance, one dollar.

(6) For entering a final judgment or decree, one dollar and fifty cents.

(7) For taxing costs, one dollar.

(8) For issuing an execution or other process after judgment or decree, two dollars.

(9) For filing and docketing a transcript of judgment from another county, one dollar.

(10) For entering a rule or order, one dollar.

(11) For issuing a writ or order, not including subpoenas, two dollars.

(12) For entering a judgment by confession, two dollars.

(13) For entering a satisfaction of a judgment, one dollar.

(14) For a copy of records or papers filed in the clerk's office, transcripts, and making a complete record, fifty cents for each one hundred words.

(15) For taking and approving a bond and sureties on the bond, two dollars.

d. For filing, entering, and endorsing a mechanic's lien, three dollars, and if a suit is brought, the fee is taxable as other costs in the action.

e. For a certificate and seal, two dollars.

f. For receiving and filing a declaration of intention and issuing a duplicate, two dollars. For making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing, four dollars; and for entering the final order and the issuance of the certificate of citizenship, if granted, four dollars.

g. In addition to the fees required in paragraph "f", the petitioner shall, upon the filing of a petition to become a citizen of the United States, deposit with the clerk money sufficient to cover the expense of subpoenaing and paying the legal fees of witnesses for whom the petitioner may request a subpoena, and upon the final discharge of the witnesses they shall receive, if they demand it from the clerk, the customary and usual witness fees from the moneys collected, and the residue, if any, except the amount necessary to pay the cost of serving the subpoenas, shall be returned by the clerk to the petitioner.

h. For a certificate and seal to an application to procure a pension, bounty, or back pay for a soldier or other person, no charge.

i. For making out a transcript in a criminal case appealed to the supreme court, for each one hundred words, fifty cents.

j. In criminal cases, the same fees for the same services as in civil cases, to be paid by the county or city initiating the action as provided in section 602.8109. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city initiating the action to the extent necessary for reimbursement for fees paid.

k. For issuing a marriage license, fifteen dollars. The clerk of the district court shall remit to the treasurer of state five dollars for each marriage license issued. The treasurer of state shall deposit the funds received in the general fund of the state. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars.

l. For certifying a change in title of real estate, two dollars.

m. In addition to all other fees, for making a complete record in cases where a complete record is required by law or directed by an order of the court, for every one hundred words, twenty cents.

n. For providing transcripts, certificates, other documents, and services in probate matters, the fees specified in section 633.31.

o. The jury fee and court reporter fee specified in chapter 625.

p. Other fees provided by law.

2. The fees collected by the clerk as provided in subsection 1 shall be deposited in the court revenue distribution account established under section 602.8108, except as otherwise provided by that section or by applicable law.

3. The clerk shall keep an accurate record of the fees collected in a fee book, and make a quarterly report of the fees collected to the supreme court.

4. The clerk shall pay to the treasurer of state on the first Monday which is not a holiday in January and July of each year all fees which have come into the clerk's possession since the date of the preceding payment, which do not belong to the clerk's office, and which are unclaimed. The clerk shall give the treasurer the title of the cause and style of the court in which the suit is pending, the names of the witnesses, jurors, officers, or other persons involved in the action, and the amount of money to which each of the persons is entitled. The treasurer of state shall deposit the funds in the general fund of the state as state revenue, provided that fees so deposited shall be paid to the persons entitled to them upon proper and timely demand. If payment of a fee is demanded, with proper proof, by the person entitled

to it within five years from the date that the money is paid to the treasurer, the comptroller shall issue a warrant to pay the claim. If a person entitled to unclaimed fees does not demand payment within the five years, all rights to the fees or interest in the fees are waived and payment shall not be made.

(83 Acts, ch 186, § 9105, 10201) SF 495

NEW section

(83 Acts, ch 204, § 14) SF 549

Subsection 1, paragraphs a through e amended and remaining paragraphs relettered

602.8106 Certain fees — collection and disposition.

1. Notwithstanding section 602.8105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor shall be eight dollars, provided that a fee for filing and docketing a complaint or information shall not be collected in cases of overtime parking.

2. The clerk shall remit ninety percent of all fines and forfeited bail received from a magistrate or district associate judge to the city that was the plaintiff in any action, and shall provide that city with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed. The clerk shall deposit the remaining ten percent in the court revenue distribution account established under section 602.8108.

3. The clerk shall remit all other fines and forfeited bail received from a magistrate to the treasurer of state for distribution under section 602.8107.*

4. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

a. One-half shall be remitted monthly by the clerk to the treasurer of state to be credited to the general fund of the state.

b. One-fourth shall be deposited in the court revenue distribution account established under section 602.8108.

c. One-fourth shall be remitted monthly by the clerk to the treasurer of state to be credited to the judicial retirement fund established under section 602.9104.

(83 Acts, ch 186, § 9106, 10201, 10204) SF 495

*Apparently effective July 1, 1984, section 602.8107 is void and all amounts received under subsection 3 are to be deposited in the general fund of the state; see 83 Acts, ch 186, § 10204, (SF 495) and Code editor's note to section 32.2 at the end of this Supplement

NEW section

(83 Acts, ch 204, § 15, 16) SF 549

Subsections 1 and 4 amended

602.8107 School fund revenues — appropriation.

1. The treasurer of state shall certify to the state comptroller the amounts received from a clerk of the district court under sections 32.2, 99.30, 127.20, 302.44, 508.15, 511.7, 515.93, 534.12, 535.5, 595.11, 602.8106, subsection 3, 644.15, and 666.3.

2. The state comptroller shall remit the amounts certified under subsection 1 on a semiannual basis to the respective county treasurers for the benefit of the temporary school fund. If the total amount certified to the state comptroller under subsection 1 for a fiscal year is less than the total amount certified during the fiscal year beginning July 1, 1984, the state comptroller shall prorate the amounts paid to school districts. Commencing in the fiscal year beginning July 1, 1984, the maximum amount a school district is entitled to receive during a fiscal year is the amount paid to the school district under this section during the fiscal year beginning July 1, 1983.

3. Any amount collected under section 602.8106, subsection 3 that is in excess of the amount to which a school district is entitled under subsection 2 shall be deposited in the general fund of the state.

4. There is appropriated to the state comptroller as much of the revenues received under section 602.8106, subsection 3 as is necessary for the distributions required under subsection 2.

(83 Acts, ch 186, § 9107, 10201, 10204) SF 495

This section is void, apparently effective July 1, 1984; see 83 Acts, ch 186, § 10204, and Code editor's note to section 32.2 at the end of this Supplement

NEW section

602.8108 Court revenue distribution account.

1. The clerk of the district court shall establish and maintain a court revenue distribution account. The clerk shall deposit in this account all fees and other receipts that are specifically required by law to be deposited in the court revenue distribution account. The account shall not be used for any other purpose.

2. Revenue deposited in the court revenue distribution account shall be distributed as follows:

a. Of the revenue received by the clerk during the fiscal year commencing July 1, 1983 and ending June 30, 1984, the clerk shall remit eighty percent to the county treasurer and twenty percent to the treasurer of state.*

b. Of the revenue received by the clerk during the fiscal year commencing July 1, 1984 and ending June 30, 1985, the clerk shall remit sixty percent to the county treasurer and forty percent to the treasurer of state.

c. Of the revenue received by the clerk during the fiscal year commencing July 1, 1985 and ending June 30, 1986, the clerk shall remit forty percent to the county treasurer and sixty percent to the treasurer of state.

d. Of the revenue received by the clerk during the fiscal year commencing July 1, 1986 and ending June 30, 1987, the clerk shall remit twenty percent to the county treasurer and eighty percent to the treasurer of state.

e. The clerk shall remit all revenue received on or after July 1, 1987, to the treasurer of state.

3. The clerk of the district court shall account for and distribute revenue deposited in the court revenue distribution account on a monthly basis. Not later than the fifteenth day of each calendar month, the clerk shall distribute all revenues received during the preceding calendar month according to the applicable formula as stated in subsection 2. Each distribution shall be accompanied by a statement disclosing the total amount of revenue received during the accounting period, any adjustments of gross revenue figures that are necessary to reflect changes in the balance of the court revenue distribution account, including but not limited to reductions resulting from the dishonor of checks previously accepted by the clerk, and the amount distributed to each recipient under subsection 2.

4. Revenue distributed to the treasurer of state under this section shall be deposited in the general fund of the state. Revenue distributed to a county under this section shall be deposited in the county general fund.

(83 Acts, ch 186, § 9108, 10201) SF 495

*During fiscal year beginning July 1, 1983, board may transfer from the court expense fund to the county general fund an amount not in excess of the amount remitted to the treasurer of state under subsection 2, paragraph a, in order to replenish the revenue loss from the general fund due to the operation of this paragraph; 83 Acts, ch 204, § 17 (SF 549)

NEW section

602.8109 Settlement of accounts of cities and counties.

1. A city or a county shall pay court costs and other fees payable to the clerk of the district court for services rendered upon receipt of a statement from the clerk disclosing the amount due.

2. No later than the fifteenth day of each calendar month the clerk of the district court shall deliver to the county auditor a statement disclosing all of the following:

a. The specific amounts of statutory fees and costs that are payable by the county to the clerk for services rendered by the clerk or other state officers or employees during the preceding month in connection with each civil or criminal action, and the total of all of these fees and costs.

b. Any amounts collected by the clerk of the district court during the preceding month as costs in an action when these amounts are payable by law to the county as reimbursement for costs incurred by the county in connection with a civil or criminal action, and the total of all of these amounts.

3. If the amount owed by the county under subsection 2, paragraph "a" for a calendar month is greater than the amount due to the county under subsection 2,

paragraph "b" for that month, the county shall remit the difference to the clerk of the district court no later than the last day of the month in which the statement under subsection 2 is received.

4. If the amount due to the county under subsection 2, paragraph "b" for a calendar month is greater than the amount owed by the county under subsection 2, paragraph "a" for that month, the clerk of the district court shall remit the difference to the county treasurer no later than the last day of the month in which the statement under subsection 2 is delivered.

5. The clerk of the district court shall submit a statement to the city clerk of a city for statutory fees and costs that are payable by the city for services rendered by the clerk of the district court or other state officers or employees in connection with civil or criminal actions. The city shall pay amounts due within thirty days after the date the statement is mailed.

6. The clerk of the district court shall remit to a city within thirty days after receipt any amounts collected by the clerk as costs in an action when these amounts are payable by law to the city as reimbursement for costs incurred by the city in connection with a civil or criminal action.

7. Amounts not paid as required under subsection 3, 4, 5, or 6 shall bear interest for each day of delinquency at the rate in effect as of the day of delinquency for time deposits of public funds for eighty-nine days, as established under section 453.6.

(83 Acts, ch 186, § 9109, 10201) SF 495

NEW section

ARTICLE 9

JUDICIAL RETIREMENT

Chapter 605A of Code 1983 transferred to article 9 of chapter 602; 83 Acts, ch 186, § 10202(2) (SF 495)

PART 1

JUDICIAL RETIREMENT SYSTEM

602.9101 System created. A retirement system is hereby created and established to be known as the "Judicial Retirement System", hereinafter called the "system".

Transferred from section 605A.1, Code 1983

602.9102 Administered by court administrator. The court administrator shall be vested with authority to administer the system and related reports and may promulgate rules therefor not inconsistent with the provisions of this chapter.

Transferred from section 605A.2, Code 1983

602.9103 Notice by judge in writing. This chapter shall not apply to any judge of the municipal, superior, or district court including a district associate judge, or a judge of the court of appeals or of the supreme court, until he gives notice in writing, while serving as a judge, to the state comptroller and treasurer of state, of his purpose to come within its purview. Judges of the municipal and superior courts shall at the same time give a copy of such notice to the city treasurer and county auditor within the district of such court. Such notice shall be given within one year after the effective date hereof or within one year after any date on which he takes oath of office as such judge.

Transferred from section 605A.3, Code 1983

602.9104 Deposit by judge — deductions — contributions by governing body.

1. Each judge coming within the purview of this chapter shall, on or before retirement, pay to the court administrator for deposit with the treasurer of state to the credit of a fund to be known as the "judicial retirement fund", hereinafter called the "fund", a sum equal to four percent of the judge's basic salary for services as such

judge for the total period of service as a judge of a municipal, superior, district or supreme court, or the court of appeals, including district associate judges, before the date of said notice, and after the date of the notice there shall be deducted and withheld from the basic salary of each judge coming within the purview of this chapter a sum equal to four percent of such basic salary. Provided that the maximum amount which any judge shall be required to contribute for past service shall not exceed for municipal or superior or district associate judges thirty-five hundred dollars, for district judges four thousand dollars, for court of appeals judges four thousand five hundred dollars, and for supreme court judges five thousand dollars.

2. The amounts so deducted and withheld from the basic salary of each said judge shall be paid to the court administrator for deposit with the treasurer of state to the credit of the judicial retirement fund, and said fund is hereby appropriated for the payment of annuities, refunds, and allowances herein provided, except that the amount of such appropriations affecting payment of annuities, refunds, and allowances to judges of the municipal and superior court shall be limited to that part of said fund accumulated for their benefit as hereinafter provided.

3. The judges of the municipal, superior, district and supreme court, and the court of appeals, including district associate judges, coming within the provisions of this chapter shall be deemed to consent and agree to the deductions from basic salary as provided herein and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services rendered by such judges during the period covered by such payment, except the right to the benefits to which they shall be entitled under the provisions of this chapter.

4. The state shall contribute a sum not exceeding three percent of the basic salary of all judges of the district and supreme court for the years 1949 and 1950 and thereafter such sums as may be necessary over the amount contributed by the district and supreme court judges to finance the system, but only to the extent that the system applies to them. After June 30, 1973, the state shall contribute such sums as may be necessary over the amount contributed by district associate judges to finance the system as to them for the portion of their tenure after July 1, 1973, and thereafter such sums as may be necessary over the amount contributed by the district associate judges to finance the system, but only to the extent the system applies to them. After July 1, 1976, the state shall contribute such sums as may be necessary over the amount contributed by judges of the court of appeals to finance the system, but only to the extent the system applies to them.

Transferred from section 605A.4, Code 1983

602.9105 Qualification conditions. No person, except the survivor of a person qualified to receive an annuity, shall be entitled to receive an annuity under this chapter unless he shall have contributed, as herein provided, to the judicial retirement fund for the entire period of his service as a judge of one or more of the courts included in this chapter.

Transferred from section 605A.5, Code 1983

602.9106 Retirement. Any person who shall have become separated from service as a judge of any of the courts included in this chapter and who has had an aggregate of at least six years of service as a judge of one or more of such courts and shall have attained the age of sixty-five years or who has had twenty-five years of consecutive service as a judge of one or more of said courts, and who shall have otherwise qualified as provided in this chapter, shall be entitled to an annuity as hereinafter provided.

Transferred from section 605A.6, Code 1983

602.9107 Amount of annuity. The annuity of a judge under this system shall be an amount equal to three percent of his average annual basic salary for his last three years as a judge of one or more of the courts included in this chapter, multiplied by his years of service as a judge of one or more of such courts, but no such annuity shall exceed an amount equal to fifty percent of the salary that he is receiving at the time he becomes separated from such service.

Transferred from section 605A.7, Code 1983

602.9108 Individual accounts — refunding. The amounts deducted and withheld from the basic salary of each judge of the municipal, superior, district or supreme court, or court of appeals, including district associate judges, for the credit of the judicial retirement fund and all amounts paid into such fund by each judge shall be credited to the individual account of such judge. In the event a judge of the municipal, superior, district or supreme court, court of appeals, including district associate judges, becomes separated from service as such judge before he completes an aggregate of six years of service as a judge of one or more of such courts, the total amount of his contribution to the fund shall be returned to said judge or his legal representatives, and in the event a judge who has completed an aggregate of six years or more of service as a judge of one or more of such courts, dies before retirement, without a survivor, the total amount of his contribution to the fund shall be paid in one sum to his legal representatives, and in the event an annuitant under this section dies without a survivor, without having received in annuities an amount equal to the total amount remaining to his credit at the time of his separation from service, the amount remaining to his credit shall be paid in one sum to his legal representatives.

Transferred from section 605A.8, Code 1983

602.9109 Payment of annuities. Annuities granted under the terms of this chapter shall be due and payable in monthly installments on the last business day of each month following the month or other period for which the annuity shall have accrued and shall continue during the life of the annuitant and payment of all annuities, refunds, and allowances granted hereunder shall be made by checks or warrants drawn and issued by the state comptroller. Applications for annuities shall be in such form as the state comptroller may prescribe.

Transferred from section 605A.9, Code 1983

602.9110 Other public employment prohibited. No annuity shall be paid to any person, except a survivor, entitled to receive an annuity hereunder while he is serving as a state officer or employee.

However, this section does not prohibit the payment of an annuity to a senior judge while serving as provided in section 602.9206.

Transferred from section 605A.10, Code 1983

602.9111 Investment of fund. So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this chapter shall be invested by the treasurer of state in bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof or in any investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b", and the earnings therefrom shall be credited to said fund.

Transferred from section 605A.11, Code 1983

602.9112 Voluntary retirement for disability. Any judge of the supreme, district or municipal court, including a district associate judge, or a judge of the court of appeals, who shall have served as a judge of one or more of such courts for a period of six years in the aggregate and who believes he has become permanently incapacitated

tated, physically or mentally, to perform the duties of his office may personally or by his next friend or guardian file with the court administrator a written application for retirement. The application shall be filed in duplicate and accompanied by an affidavit as to the duration and particulars of his service and the nature of his incapacity. The court administrator shall forthwith transmit one copy of the application and affidavit to the chief justice who shall request the attorney general in writing to cause an investigation to be made relative to the claimed incapacity and report back the results thereof in writing. If the chief justice finds from the report of the attorney general that the applicant is permanently incapacitated, physically or mentally, to perform the duties of his office he shall by his endorsement thereon declare the applicant retired, and the office vacant, and shall file the report in the office of the court administrator, and a copy in the office of the secretary of state. From the date of such filing the applicant shall be deemed retired from his office and entitled to the benefits of this chapter to the same extent as if he had retired under the provisions of section 602.9106.

Transferred from section 605A.12, Code 1983

602.9113 Retirement benefits for disability. An adjudication as to permanent physical or mental disability under the provisions of article 2, part 1 shall entitle the judge to the same retirement benefits as provided for voluntary retirement for such cause.

Transferred from section 605A.13, Code 1983

602.9114 Forfeiture of benefits — refund. In the event a judge of the supreme, district or municipal court including a district associate judge, or a judge of the court of appeals, is removed for cause other than permanent disability he and his survivor shall forfeit the right to any retirement benefits under the system but the total amount of his contribution to the fund shall be returned to him or his legal representative.

Transferred from section 605A.14, Code 1983

602.9115 Annuity for survivor of annuitant. The survivor of a judge who was qualified for retirement compensation under the system at the time of his death, is entitled to receive an annuity of one-half the amount of the annuity the judge was receiving or would have been entitled to receive at the time of his death, or if the judge died before age sixty-five, then one-half of the amount he would have been entitled to receive at age sixty-five based on his years of service. Such annuity shall begin on the judge's death, or on the date the judge would have been sixty-five if he died earlier than age sixty-five, or upon the survivor reaching age sixty, whichever is later.

For the purposes of this chapter "survivor" means the surviving spouse of a person who was a judge, if married to the judge for at least five years next preceding his death, but does not include a surviving spouse who remarries.

In the event the judge dies leaving a survivor but without receiving in annuities an amount equal to his credit, the balance shall be credited to the account of his survivor, and if the survivor dies without remarrying and without receiving in annuities an amount equal to said balance, the amount then remaining shall be paid to the survivor's legal representative.

Transferred from section 605A.15, Code 1983

602.9116 Actuarial valuation. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund at least once every four years commencing with the fiscal year beginning July 1, 1981. The court administrator shall adopt mortality tables and other necessary factors for use in the actuarial calculations required for the valuation upon the recommendation of the actuary. Following the actuarial valuation, the court administrator shall

determine the condition of the system and shall report its findings and recommendations to the general assembly.

The cost of the actuarial valuation shall be paid from the judicial retirement fund.

Transferred from section 605A.18, Code 1983

PART 2

IOWA SENIOR JUDGE ACT

602.9201 Short title. This part may be cited and referred to as the Iowa senior judge Act.

Transferred from section 605A.21, Code 1983

602.9202 Definitions. As used in this part unless the context otherwise requires:

1. "*Senior judge*" means a supreme court judge, court of appeals judge, district court judge or district associate judge who meets the requirements of section 602.9203 and who has not been retired or removed from the roster of senior judges under section 602.9207 or 602.9208.

2. "*Retired senior judge*" means a senior judge who has been retired from a senior judgeship as provided in section 602.9207.

3. "*Roster of senior judges*" means the roster maintained by the clerk of the supreme court under section 602.9203, subsection 3.

4. "*Twelve-month period*" means each successive one-year period commencing on the date a retired judge becomes a senior judge and while the judge continues to be a senior judge.

Transferred from section 605A.22, Code 1983

602.9203 Senior judgeship requirements.

1. A supreme court judge, court of appeals judge, district judge or district associate judge, who qualifies under subsection 2 may become a senior judge by filing with the clerk of the supreme court a written election in the form specified by the court administrator. The election shall be filed not later than the date of retirement.

2. A judicial officer referred to in subsection 1 qualifies for a senior judgeship if he or she meets all of the following requirements:

a. Retires from office on or after July 1, 1977, whether or not he or she is of mandatory retirement age.

b. Meets the minimum requirements for entitlement to an annuity as specified in section 602.9106.

c. Agrees in writing on a form prescribed by the court administrator to be available as long as he or she is a senior judge to perform judicial duties as assigned by the supreme court for an aggregate period of thirteen weeks out of each successive twelve-month period.

d. Submits evidence to the satisfaction of the supreme court that as of the date of retirement he or she does not suffer from a permanent physical or mental disability which would substantially interfere with the performance of duties agreed to under paragraph "c" of this subsection.

3. The clerk of the supreme court shall maintain a book entitled "Roster of Senior Judges", and shall enter in the book the name of each judicial officer who files a timely election under subsection 1 and qualifies under subsection 2. A person shall be a senior judge upon entry of the person's name in the roster of senior judges and until the person becomes a retired senior judge as provided in section 602.9207, or until the person's name is stricken from the roster of senior judges as provided in section 602.9208, or until the person dies.

4. The supreme court shall cause each senior judge on the roster to actually perform judicial duties during each successive twelve-month period.

5. A judicial officer referred to in subsection 1 who retired from office on or after

the date specified in subsection 2 and before July 1, 1979, may become a senior judge by filing with the clerk of court not later than thirty days after July 1, 1979, a written election in the form specified by the court administrator. If prior to July 1, 1979, the judicial officer filed an election to practice law under section 602.1612, the filing of an election under this subsection revokes the election to practice law, and the judicial officer shall divest himself or herself of any interest in the practice of law within ninety days after July 1, 1979. For purposes of subsection 2, paragraph "d", of this section only, the date of retirement of a judicial officer who files an election under the authority of this subsection shall be deemed to be July 1, 1979.

Transferred from section 605A.23, Code 1983

602.9204 Annuity of senior judge and retired senior judge. A senior judge or a retired senior judge shall not be paid a salary. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the current base salary, as of the time each payment is made, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this chapter, except the annuity of the senior judge or retired senior judge shall not exceed fifty percent of such current base salary.

Transferred from section 605A.24, Code 1983

602.9205 Practice of law prohibited. A senior judge shall not practice law.

Transferred from section 605A.25, Code 1983

602.9206 Temporary service by senior judge. Section 602.1612 does not apply to a senior judge but does apply to a retired senior judge. During the tenure of a senior judge, if the judge is able to serve, he or she may be assigned by the supreme court to temporary judicial duties on courts of this state without salary for an aggregate of thirteen weeks out of each twelve-month period, and for additional weeks with his or her consent. A senior judge shall not be assigned to judicial duties on a court superior to the highest court to which he or she was appointed prior to retirement, and shall not be assigned to the court of appeals or the supreme court except to serve in the temporary absence of a member of that court. While serving on temporary assignment, a senior judge has and may exercise all of the authority of the office to which he or she is assigned, shall continue to be paid his or her annuity as senior judge, shall be reimbursed for his or her actual expenses to the extent expenses of a district judge are reimbursable under section 602.1509, may, if permitted by the assignment order, appoint a temporary court reporter, who shall be paid the remuneration and reimbursement for actual expenses provided by law for a reporter in the court to which the senior judge is assigned, and, if assigned to the court of appeals or the supreme court, shall be given the assistance of a law clerk and a secretary designated by the court administrator of the judicial department from the court administrator's staff. Each order of temporary assignment shall be filed with the clerks of court at the places where the senior judge is to serve.

A senior judge also shall be available to serve in the capacity of administrative hearing officer under chapter 17A upon the request of an agency, and the supreme court may assign a senior judge for temporary duties as a hearing officer. A senior judge shall not be required to serve a period of time as a hearing officer which, when added to the period of time being served by the person as a judge, if any, would exceed the maximum period of time the person agreed to serve pursuant to section 602.9203, subsection 2.

Transferred from section 605A.26, Code 1983

602.9207 Retirement of senior judge.

1. A senior judge shall cease to be a senior judge upon completion of the twelve-month period during which he or she attains seventy-eight years of age. The clerk of the supreme court shall make a notation of the retirement of a senior judge in the roster of senior judges, at which time the senior judge shall become a retired senior judge.

2. A senior judge is subject to retirement under article 2, part 1 for the causes specified in section 602.2106, subsection 3, paragraph "a". A senior judge may request and be granted retirement in the manner provided in section 602.9112. When a senior judge is retired as provided in this subsection the clerk of the supreme court shall make a notation of the retirement of the senior judge in the roster of senior judges, at which time the senior judge shall become a retired senior judge.

Transferred from section 605A.27, Code 1983

602.9208 Relinquishment of senior judgeship — removal for cause.

1. A senior judge, at any time prior to the end of the twelve-month period during which he or she attains seventy-eight years of age, may submit to the clerk of the supreme court a written request that his or her name be stricken from the roster of senior judges. Upon the receipt of the request the clerk shall strike the name of the person from the roster of senior judges, at which time the person shall cease to be a senior judge. A person who relinquishes a senior judgeship as provided in this subsection may be assigned to temporary judicial duties as provided in section 602.1612.

2. A senior judge is subject to removal under the provisions of article 2, part 1 for any of the causes specified in section 602.2106, subsection 3, paragraph "b". When a person is removed from a senior judgeship as provided in this subsection the clerk of the supreme court shall strike the name of the person from the roster of senior judges, at which time the person shall cease to be a senior judge.

3. A person who relinquishes a senior judgeship in the manner provided in subsection 1 or who is removed as provided in subsection 2 shall be paid a retirement annuity in an amount determined according to section 602.9107 in lieu of section 602.9204, commencing on the effective date of the relinquishment or removal, and for such purposes any service and annuity of the person as a senior judge is disregarded.

Transferred from section 605A.28, Code 1983

602.9209 Survivor's annuity.

1. A survivor of a senior judge or a retired senior judge shall be paid an annuity in lieu of that specified in section 602.9115, which is equal to one-half the amount of the annuity the senior judge or retired senior judge was receiving at the time of his or her death, provided the survivor is qualified under section 602.9115 to receive an annuity.

2. A survivor of a person whose name is stricken from the roster of senior judges shall be paid an annuity equal to one-half of the amount the person was receiving at the time of his or her death, provided the survivor is qualified under section 602.9115 to receive an annuity.

Transferred from section 605A.29, Code 1983

ARTICLE 10

ATTORNEYS AND COUNSELORS

Chapter 610 of Code 1983 transferred to article 10 of chapter 602; 83 Acts, ch 186, § 10202(2) (SF 495)

602.10101 Admission to practice. The power to admit persons to practice as attorneys and counselors in the courts of this state, or any of them, is vested exclusively in the supreme court which shall adopt and promulgate rules to carry out the intent and purpose of this chapter.

Transferred from section 610.1, Code 1983

602.10102 Qualifications for admission. Every applicant for such admission shall be a person of honesty, integrity, trustworthiness, truthfulness and one who appreciates and will adhere to a code of conduct for lawyers as adopted by the supreme court. He shall be an inhabitant of this state, and shall have actually and in good faith pursued a regular course of study of the law and shall have graduated from some reputable law school. The application form shall not contain a recent photograph of the applicant. An applicant shall not be ineligible for registration because of age, citizenship, sex, race, religion, marital status or national origin although the application form may require citizenship information. The board may consider the past record of guilty pleas and convictions of public offenses of an applicant. Character references may be required; however, such references shall not be restricted to lawyers.

Transferred from section 610.2, Code 1983

602.10103 Board of law examiners. There is established a board of law examiners which shall consist of five persons admitted to practice law in this state and two persons not admitted to practice law in this state who shall represent the general public. Members shall be appointed by the supreme court. A member admitted to practice law shall be actively engaged in the practice of law in this state.

Transferred from section 610.3, Code 1983

602.10104 Examinations. Every applicant shall be examined by the board concerning his learning and skill in the law. The sufficiency of the education of the applicant may be determined by written examination or in such other manner as the board shall prescribe. The board shall hold at least one meeting each year at the seat of government. Examinations shall be given as often as deemed necessary as determined by the court, but shall be conducted at least one time per year. All examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible.

An applicant who fails the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the court. An applicant who has failed the examination may request in writing information from the court concerning his examination grade and subject areas or questions which he failed to answer correctly, except that if the court administers a uniform, standardized examination, the court shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the court.

Transferred from section 610.4, Code 1983

602.10105 Term of office. Appointments shall be for three-year terms and shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment of the supreme court. Members shall serve no more than three terms or nine years, whichever is less.

Transferred from section 610.5, Code 1983

602.10106 Oath — compensation. The members thus appointed shall take and subscribe an oath to be administered by one of the judges of the supreme court to faithfully and impartially discharge the duties of the office. The members shall, in addition to receiving actual and necessary expenses, set the per diem compensation for themselves and the temporary examiners appointed under section 602.10107 at a rate not exceeding forty dollars per diem for each day actually engaged in the discharge of their duties. Such duties shall include the traveling to and from the place of examination, the preparation and conducting of examinations, and the reading of the examination papers. The per diem authorized under this section shall be reasonably apportioned in relation to the funds appropriated to the board.

Transferred from section 610.6, Code 1983

602.10107 Temporary appointments — expenses. The supreme court may appoint from time to time, when necessary, temporary examiners to assist the board, who shall receive their actual and necessary expenses to be paid from funds appropriated to the board.

The members of the board authorized to grade examinations shall make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board shall, also, recommend to the supreme court for admission to practice law in this state all applicants who pass the examination and who meet the requisite character requirements. The supreme court shall make the final decision in determining who shall be admitted.

Transferred from section 610.7, Code 1983

602.10108 Fees. The board shall set the fees for examination and for admission. The fees for examination shall be based upon the annual cost of administering the examinations. The fees for admission shall be based upon the costs of conducting an investigation of the applicant and the administrative costs of sustaining the board, which shall include but shall not be limited to:

1. Expenses and travel for board members and temporary examiners.
2. Office facilities, supplies, and equipment.
3. Clerical assistance.

Fees shall be collected by the board and transmitted to the treasurer of state who shall deposit the fees in the general fund of the state.

Transferred from section 610.8, Code 1983

602.10109 Practitioners from other states. Any person who is a resident of this state, and has been admitted to the bar of any other state in the United States or the District of Columbia, may, in the discretion of the court, be admitted to practice in this state without examination or proof of a period of study. The person, in his application for admission to practice law in this state, in addition to all other requirements stated in this chapter, shall establish that he has practiced law for five full years under license in such jurisdiction within the seven years immediately preceding the date of his application and still holds a license to practice law. The teaching of law as a full-time instructor in a recognized law school in this state or some other state shall for the purpose of this section be deemed the practice of law. Any person who has discharged actual legal duties as a member of the armed services of the United States shall be deemed to have practiced law for the purposes of this section if certified to as such by the judge advocate general of the service. The court may charge an investigation fee based upon the cost of conducting the investigation as determined by the court.

Transferred from section 610.10, Code 1983

602.10110 Oath. All persons on being admitted to the bar shall take an oath or affirmation to support the Constitutions of the United States and of the state of Iowa, and to faithfully discharge the duties of an attorney and counselor of this state according to the best of their ability.

Transferred from section 610.11, Code 1983

602.10111 Nonresident attorney — appointment of local attorney. Any member of the bar of another state, actually engaged in any cause or matter pending in any court of this state, may be permitted by such court to appear in and conduct such cause or matter while retaining his residence in another state, without being subject to the foregoing provisions of this chapter; provided that at the time he enters his appearance he files with the clerk of such court the written appointment of some attorney resident and admitted to practice in the state of Iowa, upon whom service may be had in all matters connected with said action, with the same effect as if personally made on such foreign attorney within this state. In case of failure

to make such appointment, such attorney shall not be permitted to practice as aforesaid, and all papers filed by him shall be stricken from the files.

Transferred from section 610.13, Code 1983

602.10112 Duties of attorneys and counselors. It is the duty of an attorney and counselor:

1. To maintain the respect due to the courts of justice and judicial officers.
2. To counsel or maintain no other actions, proceedings, or defenses than those which appear to him legal and just, except the defense of a person charged with a public offense.
3. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never to seek to mislead the judges by any artifice or false statement of fact or law.
4. To maintain inviolate the confidence, and, at any peril to himself, to preserve the secret of his client.
5. To abstain from all offensive personalities, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged.
6. Not to encourage either the commencement or continuance of an action or proceeding from any motive of passion or interest.
7. Never to reject for any consideration personal to himself the cause of the defenseless or oppressed.

Transferred from section 610.14, Code 1983

602.10113 Deceit or collusion. An attorney and counselor who is guilty of deceit or collusion, or consents thereto, with intent to deceive a court or judge or a party to an action or proceeding, is liable to be disbarred, and shall forfeit to the injured party treble damages to be recovered in a civil action.

Transferred from section 610.15, Code 1983

602.10114 Authority. An attorney and counselor has power to:

1. Execute in the name of his client a bond, or other written instrument, necessary and proper for the prosecution of an action or proceeding about to be or already commenced, or for the prosecution or defense of any right growing out of an action, proceeding, or final judgment rendered therein.
2. Bind his client to any agreement, in respect to any proceeding within the scope of his proper duties and powers; but no evidence of any such agreement is receivable, except the statement of the attorney himself, his written agreement signed and filed with the clerk, or an entry thereof upon the records of the court.
3. Receive money claimed by his client in an action or proceeding during the pendency thereof, or afterwards, unless he has been previously discharged by his client, and, upon payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

Transferred from section 610.16, Code 1983

602.10115 Proof of authority. The court may, on motion of either party and on the showing of reasonable grounds therefor, require the attorney for the adverse party, or for any one of the several adverse parties, to produce or prove by his own oath, or otherwise, the authority under which he appears, and, until he does so, may stay all proceedings by him on behalf of the parties for whom he assumes to appear.

Transferred from section 610.17, Code 1983

602.10116 Attorney's lien — notice. An attorney has a lien for a general balance of compensation upon:

1. Any papers belonging to his client which have come into his hands in the course of his professional employment.

2. Money in his hands belonging to his client.

3. Money due his client in the hands of the adverse party, or attorney of such party, in an action or proceeding in which the attorney claiming the lien was employed, from the time of giving notice in writing to such adverse party, or attorney of such party, if the money is in the possession or under the control of such attorney, which notice shall state the amount claimed, and, in general terms, for what services.

4. After judgment in any court of record, such notice may be given, and the lien made effective against the judgment debtor, by entering the same in the judgment or combination docket, opposite the entry of the judgment.

Transferred from section 610.18, Code 1983

602.10117 Release of lien by bond. Any person interested may release such lien by executing a bond in a sum double the amount claimed, or in such sum as may be fixed by any district judge, payable to the attorney, with security to be approved by the clerk of the supreme or district court, conditioned to pay any amount finally found due the attorney for his services, which amount may be ascertained by suit on the bond.

Transferred from section 610.19, Code 1983

602.10118 Automatic release. Such lien will be released, unless the attorney, within ten days after demand therefor, files with the clerk a full and complete bill of particulars of the services and amount claimed for each item, or written contract with the party for whom the services were rendered.

Transferred from section 610.20, Code 1983

602.10119 Unlawful retention of money. An attorney who receives the money or property of his or her client in the course of his or her professional business, and refuses to pay or deliver it in a reasonable time, after demand, is guilty of a theft and punished accordingly.

Transferred from section 610.21, Code 1983

602.10120 Excuse for nonpayment. When the attorney claims to be entitled to a lien upon the money or property, he is not liable to the penalties of section 602.10119 until the person demanding the money proffers sufficient security for the payment of the amount of the attorney's claim, when it is legally ascertained. Nor is he in any case liable as aforesaid, provided he gives sufficient security that he will pay over the whole or any portion thereof to the claimant when he is found entitled thereto.

Transferred from section 610.22, Code 1983

602.10121 Revocation of license. The supreme court may revoke or suspend the license of an attorney to practice law in this state.

Transferred from section 610.23, Code 1983

602.10122 Grounds of revocation. The following are sufficient causes for revocation or suspension:

1. When he has been convicted of a felony. The record of conviction is conclusive evidence.

2. When he is guilty of a willful disobedience or violation of the order of the court, requiring him to do or forbear an act connected with or in the course of his profession.

3. A willful violation of any of the duties of an attorney or counselor as hereinbefore prescribed.

4. Doing any other act to which such a consequence is by law attached.

5. Soliciting legal business for himself or office, either by himself or representative. Nothing herein contained shall be construed to prevent or prohibit listing in legal or other directories, law lists and other similar publications, or the publication of professional cards in any such lists, directories, newspapers or other publication.

Transferred from section 610.24, Code 1983

602.10123 Proceedings. The proceedings to remove or suspend an attorney may be commenced by the direction of the court or on motion of any individual. In the former case, the court must direct some attorney to draw up the accusation; in the latter, the accusation must be drawn up and sworn to by the person making it.

Transferred from section 610.25, Code 1983

602.10124 Costs. If an action is commenced by direction of the court, the costs shall be taxed and disposed of as in criminal cases; provided that no allowance shall be made in such case for the payment of attorney fees.

Transferred from section 610.26, Code 1983

602.10125 Order for appearance — notice — service. If the court deems the accusation sufficient to justify further action, it shall cause an order to be entered requiring the accused to appear and answer in the court where the accusation has been filed on the day fixed in the order, and shall cause a copy of the accusation and order to be served upon the accused personally.

(83 Acts, ch 101, § 122) SF 136

Transferred from section 610.27, Code 1983

Amended

602.10126 Copy of accusation — duty of clerk. The clerk of the district court shall immediately certify to the clerk of the supreme court a copy of the accusation.

Transferred from section 610.28, Code 1983

602.10127 Notice to attorney general — duty. Thereupon the chief justice of the supreme court shall notify the attorney general of such accusation and cause a copy thereof to be delivered to him, and it shall thereupon become the duty of the attorney general to superintend either through his office, or through a special assistant to be designated by him, the prosecution of such charges.

Transferred from section 610.29, Code 1983

602.10128 Trial court. The supreme court shall designate three district judges to sit as a court to hear and decide such charges.

Transferred from section 610.30, Code 1983

602.10129 Time and place of hearing. The hearing shall be at such time as the chief justice of the supreme court may designate, and shall be held within the county where the accusation was originally filed.

Transferred from section 610.31, Code 1983

602.10130 Determination of issues. The determination of all issues shall be heard before the said judges selected by the supreme court as herein provided for.

Transferred from section 610.32, Code 1983

602.10131 Record and judgment. The records and judgment at such trial shall constitute a part of the records of the district court in the county in which the accusations are originally filed.

Transferred from section 610.33, Code 1983

602.10132 Pleadings — evidence — preservation. To the accusation, the accused may plead or demur and the issues joined thereon shall in all cases be tried by said judges so selected and all of the evidence at such trial shall be reduced to writing, filed and preserved.

Transferred from section 610.34, Code 1983

602.10133 Costs and expenses. The court costs incident to such proceedings, and the reasonable expense of said judges in attending said hearing after being approved by the supreme court shall be paid as court costs by the executive council.

Transferred from section 610.35, Code 1983

602.10134 Plea of guilty or failure to plead. If the accused plead guilty, or fail to answer, the court shall proceed to render such judgment as the case requires.

Transferred from section 610.36, Code 1983

602.10135 Appeal. In case of a removal or suspension being ordered, an appeal therefrom lies to the supreme court, and all the original papers, together with a transcript of the record, shall thereupon be transferred to the supreme court, to be there considered and finally acted upon. A judgment of acquittal by a court of record is final.

Transferred from section 610.37, Code 1983

602.10136 Certification of judgment. When a judgment has been entered in any court of record in the state revoking or suspending the license of any attorney at law to practice in the said court, the clerk of the court in which the judgment is rendered shall immediately certify to the clerk of the supreme court the order or judgment of the court in said cause.

Transferred from section 610.38, Code 1983

602.10137 Renewals. The right to practice law in this state shall be renewed in multiyear intervals by the supreme court upon such conditions as the court shall determine. Any moneys received from those persons admitted to practice law and which are designated for a client security fund or similar fund created by the supreme court shall be separately retained and administered by said court in accordance with rules promulgated by it.

Transferred from section 610.45, Code 1983

602.10138 Client security fund not an insurance company. A client security fund established by the supreme court is not an insurance company and the insurance laws of this state and the rules of the commissioner of insurance are not applicable to such a client security fund.

Transferred from section 610.46, Code 1983

602.10139 Officers. The board shall organize following its appointment and shall elect a chairman and vice chairman.

Transferred from section 610.47, Code 1983

602.10140 Public members. The public members of the board shall be allowed to participate in the administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers. The public members shall participate in the determination of whether or not each applicant meets the requisite character requirements.

Transferred from section 610.48, Code 1983

602.10141 Disclosure of confidential information. A member of the board shall not disclose information relating to the following:

1. Criminal history or prior misconduct of the applicant.
2. Information relating to the contents of the examination.
3. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

A member of the board who willfully communicates or seeks to communicate such

information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Transferred from section 610.49, Code 1983

ARTICLE 11

TRANSITION PROVISIONS

(Division IV of 83 Acts, ch 186; SF 495)

602.11101 Implementation by court component. The state shall assume responsibility for components of the court system according to the following schedule:

1. On October 1, 1983 the state shall assume the responsibility for and the costs of jury and witness fees and mileage as provided in sections 607.5, 622.69, and 622.72, except as provided in section 331.506, subsection 2.

2. Court reporters shall become court employees on July 1, 1984. The state shall assume the responsibility for and the costs of court reporters on July 1, 1984.

3. Bailiffs who perform services for the court, other than law enforcement services, shall become court employees on January 1, 1985, and shall be called court attendants. The state shall assume the responsibility for and the costs of court attendants on January 1, 1985. Section 602.6601 takes effect on January 1, 1985.

4. Juvenile probation officers shall become court employees on July 1, 1985. The state shall assume the responsibility for and the costs of juvenile probation officers on July 1, 1985.

5. Clerks of the district court shall become court employees on July 1, 1986. The state shall assume the responsibility for and the costs of the offices of the clerks of the district court on July 1, 1986. Persons who are holding office as clerks of the district court on July 1, 1986 are entitled to continue to serve in that capacity until the expiration of their respective terms of office. The district judges of a judicial election district shall give first and primary consideration for appointment of a clerk of the district court to serve the court beginning in 1989 to a clerk serving on and after July 1, 1986 until the expiration of the clerk's elected term of office. A vacancy in the office of clerk of the district court occurring on or after July 1, 1986 shall be filled as provided in section 602.1215.

6. The state shall assume the responsibility for and the costs of indigent defense on July 1, 1987.

For the period beginning July 1, 1983, and ending June 30, 1987, the provisions of division I take effect only to the extent that the provisions do not conflict with the scheduled state assumption of responsibility for the components of the court system, and the amendments and repeals of divisions II and III take effect only to the extent necessary to implement that scheduled state assumption of responsibility. If an amendment or repeal to a Code section in division II or III is not effective during the period beginning July 1, 1983, and ending June 30, 1987, the Code section remains in effect for that period. On July 1, 1987, this Act* takes effect in its entirety.

However, if the state does not fully assume the costs for a fiscal year of a component of the court system in accordance with the scheduled assumption of responsibility, the state shall not assume responsibility for that component, and the schedule of state assumption of responsibility shall be delayed. The delayed schedule of state assumption of responsibility shall again be followed for the fiscal year in which the state fully assumes the costs of that component. For the fiscal year for which the state's assumption of the responsibility for a court component is delayed, the clerk of the district court shall not reduce the percentage remittance to the counties from the court revenue distribution account under section 602.8108. The clerk shall resume the delayed schedule of reductions in county remittances for the fiscal year in which the state fully assumes the costs of that court component. If the schedules of state assumption of responsibility and reductions in county remittances are delayed, the transition period beginning July 1, 1983, and ending June 30, 1987

is correspondingly lengthened, and this Act* takes effect in its entirety only at the end of the lengthened transition period.

The supreme court shall prescribe temporary rules, prior to the dates on which the state assumes responsibility for the components of the court system, as necessary to implement the administrative and supervisory provisions of this Act*, and as necessary to determine the applicability of specific provisions of this Act* in accordance with the scheduled state assumption of responsibility for the components of the court system.

(83 Acts, ch 186, § 10201, 10301) SF 495

*83 Acts, ch 186

Appropriation; 83 Acts, ch 204, § 1 (SF 549)

NEW section

602.11102 Accrued employee rights.

1. Persons who were paid salaries by the counties immediately prior to becoming state employees as a result of this Act* shall not forfeit accrued vacation, accrued sick leave, or longevity, except as provided in this section.

2. As a part of its rule-making authority under section 602.11101, the supreme court, after consulting with the state comptroller, shall prescribe rules to provide for the following:

a. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued vacation days that was credited to the person as a county employee as of the end of the day prior to becoming a state employee.

b. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued days of sick leave that was credited to the person as a county employee as of the end of the day prior to becoming a state employee. However, the number of days of sick leave credited to a person under this subsection shall not exceed the maximum number of days that state employees generally are entitled to accrue according to laws and rules in effect as of the date the person becomes a state employee.

c. Commencing on the date of becoming a state employee, each person referred to in subsection 1 is entitled to claim the person's most recent continuous period of service in full-time county employment as full-time state employment for purposes of determining the number of days of vacation which the person is entitled to earn each year. The actual vacation benefit shall be determined according to laws and rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county employee.

d. Notwithstanding paragraphs "b" and "c", for the period beginning July 1, 1984, and ending June 30, 1986, court reporters who become state employees as a result of this Act* are not subject to the sick leave and vacation accrual limitations generally applied to state employees.

(83 Acts, ch 186, § 10201, 10302) SF 495

*83 Acts, ch 186

NEW section

602.11103 Life and health insurance. Persons who were covered by county employee life insurance and accident and health insurance plans prior to becoming state employees as a result of this Act* shall be permitted to apply prior to becoming state employees for life insurance and health and accident insurance plans that are available to state employees so that those persons do not suffer a lapse of insurance coverage as a result of this Act*. The supreme court, after consulting with the state comptroller, shall prescribe rules and distribute application forms and take other actions as necessary to enable those persons to elect to have insurance coverage that is in effect on the date of becoming state employees. The actual insurance coverage available to a person shall be determined by the plans that are available to state employees, irrespective of any greater or lesser benefits as a county employee.

(83 Acts, ch 186, § 10201, 10303) SF 495

*83 Acts, ch 186

NEW section

602.11104 Compensation and benefits. Notwithstanding sections 602.11102, 602.11103, and 602.11106, a county employee who becomes a state employee as a result of this Act* shall receive the compensation and other benefits provided to state employees, unless the employee, within the period of time beginning thirty days prior to the day when the employee becomes a state employee and ending thirty days after the employee becomes a state employee, files an election with the state court administrator to continue to receive the compensation and other benefits received by the employee immediately prior to becoming a state employee. If an employee files the election, the employee may at any time thereafter revoke the election and agree to receive the compensation and other benefits provided to state employees. The state court administrator shall reimburse counties for expenses incurred as a result of employee elections to continue to receive the compensation and other benefits which the employees received immediately prior to becoming state employees.

(83 Acts, ch 186, § 10201, 10304) SF 495

*83 Acts, ch 186

NEW section

602.11105 Hiring moratorium.

1. Commencing one year prior to each category of employees becoming state employees as a result of this Act*, new employees shall not be hired and vacancies shall not be filled, except as provided in subsection 2, with respect to any of the following agencies or positions:

- a. Offices of the clerks of the district court.
- b. District court administrators.
- c. Juvenile probation offices.
- d. Court reporters.
- e. Any other position of employment that is supervised by a district court judicial officer or by a person referred to or employed in an office referred to in paragraph "a", "b", "c", or "d".

2. A new employee position or vacancy that is subject to subsection 1 may be filled upon approval by the chief judge of the judicial district. The employer seeking to fill the new position or vacancy shall submit a request to the chief judge in the form prescribed by the supreme court, and shall be governed by the decision of the chief judge. The chief judge shall obtain the advice of the district judges of the judicial district respecting decisions to be made under this subsection.

(83 Acts, ch 186, § 10201, 10305) SF 495

*83 Acts, ch 186

NEW section

602.11106 Employee reclassification moratorium. Commencing one year prior to county employees becoming state employees as a result of this Act,* the county employees shall not be promoted or demoted, and shall not be subject to a reduction in salary or a reduction in other employee benefits, except after approval by the chief judge of the judicial district. An employer wishing to take any of these actions shall apply to the chief judge in a writing that discloses the proposed action, the reasons for the action, and the statutory or other authority for the action. The chief judge shall not approve any proposed action that is in violation of an employee's rights or that is extraordinary when compared with customary practices and procedures of the employer. The chief judge shall obtain the advice of the district judges of the judicial district respecting decisions to be made under this section.

(83 Acts, ch 186, § 10201, 10306) SF 495

*83 Acts, ch 186

NEW section

602.11107 Court property.

1. Commencing on the date when each category of employees becomes state employees as a result of this Act,* public property referred to in subsection 2 that on the day prior to that date is in the custody of a person or agency referred to in subsection 3 shall not become property of the judicial department but shall be devoted for the use of the judicial department in its course of business. The judicial department shall only be responsible for maintenance contracts or contracts for purchase entered into by the judicial department. Upon replacement of the property by the judicial department, the property shall revert to the use of the appropriate county. However, if the property is personal property of a historical nature, the property shall not become property of the judicial department, and the county shall make the property available to the judicial department for the department's use within the county courthouse until the court no longer wishes to use the property, at which time the property shall revert to the use of the appropriate county.

2. This section applies to the following property:

- a. Books, accounts and records that pertain to the operation of the district court.
- b. Forms, materials, and supplies that are consumed in the usual course of business.
- c. Tables, chairs, desks, lamps, curtains, window blinds, rugs and carpeting, flags and flag standards, pictures and other wall decorations, and other similar furnishings.
- d. Typewriters, adding machines, desk calculators, cash registers and similar business machines, reproduction machines and equipment, microfiche projectors, tape recorders and associated equipment, microphones, amplifiers and speakers, film projectors and screens, overhead projectors, and similar personal property.
- e. Filing cabinets, shelving, storage cabinets, and other property used for storage.
- f. Books of statutes, books of ordinances, books of judicial decisions, and reference books, except those that are customarily held in a law library for use by the public.

g. All other personal property that is in use in the operation of the district court.

3. This section applies to the following persons and agencies:

- a. Clerks of the district court.
 - b. Judicial officers.
 - c. District court administrators.
 - d. Juvenile probation officers.
 - e. Court reporters.
 - f. Persons who are employed by a person referred to in paragraphs a through e.
4. Subsections 1 through 3 and 5 do not apply to electronic data storage equipment, commonly referred to as computers, or to computer terminals or any machinery, equipment, or supplies used in the operation of computers. Those counties that were providing computer services to the district court shall continue to provide these services until the general assembly provides otherwise. The state shall reimburse these counties for the cost of providing these services. Each county providing computer services to the district court shall submit a bill for these services to the supreme court at the end of each calendar quarter. Reimbursement shall be payable from funds appropriated to the supreme court for operating expenses of the district court, and shall be paid within thirty days after receipt by the supreme court of the quarterly billing.

5. Personal property of a type that is subject to subsections 1 through 3 shall be subject to the control of the chief judge of the judicial district commencing on the date when each category of employees becomes state employees as a result of this Act.* On and after that date the chief judge of the judicial district may issue necessary orders to preserve the use of the property by the district court. Commencing on that date, the chief judge, subject to the direction of the supreme court, shall establish and maintain an inventory of property used by the district court.

(83 Acts, ch 186, § 10201, 10307) SF 495

*83 Acts, ch 186

NEW section

602.11108 Collective bargaining. A person who becomes a state employee as a result of this Act* is a public employee, as defined in section 20.3, subsection 3, for purposes of chapter 20. The person may bargain collectively on and after July 1, 1983 as provided by law for a court employee. However, if the person is subject to a collective bargaining agreement negotiated prior to July 1, 1983, the person is entitled to the rights and benefits obtained by the person pursuant to that contract after July 1, 1983, until that contract expires. If the person is subject to a collective bargaining agreement negotiated on or after July 1, 1983, the person is not entitled to any rights or benefits obtained by the person pursuant to that contract after becoming a state employee.

(83 Acts, ch 186, § 10201, 10308) SF 495

*83 Acts, ch 186

NEW section

602.11109 Additional judgeships. The four additional district judgeships created by section 602.6201, subsection 10, take effect at such time as revenues are appropriated to fund the additional judgeships. As soon as possible after those revenues are appropriated, the supreme court administrator of the judicial department shall rank each judicial election district in descending order based on the application of the judgeship formula provided in section 602.6201. The additional judgeships that are created by section 602.6201, subsection 10, shall be apportioned, one to a judicial election district, among the four judicial election districts having the lowest percentage of their judgeship entitlement under the judgeship formula.

(83 Acts, ch 186, § 10201, 10309) SF 495

NEW section

602.11110 Judgeships for election districts 5A and 5C. As soon as practicable after January 1, 1985, the supreme court administrator shall recompute the number of judgeships to which judicial election districts 5A and 5C are entitled. Commencing on January 1, 1985, vacancies within judicial election districts 5A and 5C shall be determined and filled under section 602.6201, subsections 4 through 8. For purposes of the recomputations, the supreme court administrator shall determine the average case filings for the latest available three-year period by reallocating the actual case filings during the three-year period to judicial election districts 5A and 5C as if they existed throughout the three-year period.

(83 Acts, ch 186, § 10201, 10310) SF 495

NEW section

602.11111 Judicial nominating commissions for election districts 5A and 5C. The membership of district judicial nominating commissions for judicial election districts 5A and 5C shall be as provided in chapter 46, subject to the following transition provisions:

1. Those judicial nominating commissioners of judicial election district 5A who are residents of Polk county shall be disqualified from serving in election district 5A on January 1, 1985, and their offices shall be deemed vacant. The vacancies thus created shall be filled as provided in section 46.5 for the remainder of the unexpired terms.

2. After January 1, 1985 the governor shall appoint five eligible electors of judicial election district 5C to the district judicial nominating commission for terms commencing immediately upon appointment. Two of the appointees shall serve terms ending January 31, 1988, two of the appointees shall serve terms ending January 31, 1990, and the remaining appointee shall serve a term ending January 31, 1992, as determined by the governor. At the end of these terms and each six years thereafter the governor shall appoint commissioners pursuant to section 46.3.

3. After January 1, 1985 elective judicial nominating commissioners for judicial election district 5C shall be elected as provided in chapter 46 to terms of office commencing immediately upon election. One of those elected shall serve a term

ending January 31, 1988, two shall serve terms ending January 31, 1990, and two shall serve terms ending January 31, 1992, as determined by the drawing of lots by the persons elected. At the end of these terms and every six years thereafter elective commissioners shall be elected pursuant to chapter 46.

(83 Acts, ch 186, § 10201, 10311) SF 495

NEW section

602.11112 Fifth judicial election district. The provisions of section 602.6109 relating to the division of the fifth judicial district into judicial election districts 5A, 5B, and 5C take effect January 1, 1985.

(83 Acts, ch 186, § 10201, 10312) SF 495

NEW section

602.11113 Bailiffs employed as court attendants. Persons who were employed as bailiffs and who were performing services for the court, other than law enforcement services, immediately prior to the effective date of section 602.6601, shall be employed by the district court administrators as court attendants under section 602.6601 on the effective date of that section.

(83 Acts, ch 186, § 10201, 10313) SF 495

NEW section

602.11114 Temporary service by certain retired judicial magistrates. Persons who retired before January 1, 1981 and who were judicial magistrates at the time of retirement and who meet the qualifications of a district associate judge are considered to be district associate judges for the purposes of section 602.1612.

(83 Acts, ch 186, § 10201, 10314) SF 495

NEW section

CHAPTER 605

GENERAL PROVISIONS RELATING TO JUDGES AND COURTS

Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495)

CHAPTER 605A

JUDICIAL RETIREMENT SYSTEM

Transferred to article 9 of chapter 602; 83 Acts, ch 186, § 10202(2), (SF 495)

CHAPTER 607

JURORS IN GENERAL

607.6 Clerk to certify attendance. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

CHAPTER 609

SELECTION OF JURORS

609.24 Details of drawing.

1. At the time of the drawing the appropriate box shall be first thoroughly shaken in the presence of the commissioners attending the drawing. Next the seal on the opening of the box shall be broken in the presence of the commissioners. One of the commissioners shall then, without looking at the ballots, successively draw the required number of names from the box, and successively pass the ballots to one of the other commissioners, who shall open the ballots as they are drawn, and read aloud the names on the ballots, and enter the names in writing on an appropriate list.

2. Instead of the method provided in subsection 1 for the drawing of ballots, a computer selection process may be used.

(83 Acts, ch 119, § 1) SF 492

Subsection 1 amended, and NEW subsection 2

609.33 Contempt. If a person fails to appear at a regularly scheduled meeting date or when summoned, without sending a sufficient excuse, the court may issue an order requiring the person to appear and show cause why the person should not be punished for contempt, and unless the person renders a sufficient excuse for the failure the person may be punished for contempt.

(83 Acts, ch 101, § 121) SF 136

Amended

CHAPTER 610

ATTORNEYS AND COUNSELORS

Transferred to article 10 of chapter 602; 83 Acts, ch 186, § 10202(2) (SF 495)

CHAPTER 613

PARTIES TO ACTIONS

613.3 Joint and several liability if comparative negligence. 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.

(83 Acts, ch 198, § 28, 29) SF 531

Applies to cases tried or retried on or after July 1, 1984

NEW section

CHAPTER 613A

TORT LIABILITY OF GOVERNMENTAL SUBDIVISIONS

613A.4 Claims exempted. The liability imposed by section 613A.2 shall have no application to any claim enumerated in this section. As to any such claim, a municipality shall be liable only to the extent liability may be imposed by the express statute dealing with such claims and, in the absence of such express statute, the municipality shall be immune from liability.

1. Any claim by an employee of the municipality which is covered by the Iowa workers' compensation law.

2. Any claim in connection with the assessment or collection of taxes.

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.

4. Any claim against a municipality as to which the municipality is immune from liability by the provisions of any other statute or where the action based upon such claim has been barred or abated by operation of statute or rule of civil procedure.

5. Any claim for punitive damages.

6. Any claim for damages caused by a municipality's failure to discover a latent defect in the course of an inspection.

7. 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.

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 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.

The remedy against the municipality provided by section 613A.2 shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the officer, employee or agent whose act or omission gave rise to the claim, or his estate.

(83 Acts, ch 198, § 24, 25, 26, 27, 29) SF 531

Legislative intent that new subsection 7 not apply to areas of litigation other than highway or road construction or reconstruction; applicability of rule of exclusion; see 83 Acts, ch 198, § 27 (SF 531)

Amendment to subsection 3 and new subsection 7 applicable to all cases tried or retried after July 1, 1983

Subsection 3 amended

NEW subsections 7 and 8

613A.8 Officers and employees defended. The governing body shall defend its officers and employees, whether elected or appointed and shall save harmless and indemnify the officers and employees against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify does not apply to awards for punitive damages. The exception for punitive damages does not prohibit a governing body from purchasing insurance to protect its officers and employees from punitive damages. The duty to save harmless and indemnify does not apply and the municipality is entitled to restitution by an officer or employee if, in an action commenced by the municipality against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission.

Any independent or autonomous board or commission of a municipality having authority to disburse funds for a particular municipal function without approval of the governing body shall similarly defend, save harmless and indemnify its officers and employees against tort claims or demands.

The duties to defend and to save harmless and indemnify shall apply whether or not the municipality is a party to the action and shall include but not be limited to cases arising under title 42 United States Code section 1983.

In the event the officer or employee fails to co-operate in the defense against the claim or demand, the municipality shall have a right of indemnification against that officer or employee.

(83 Acts, ch 130, § 1) SF 370

Unnumbered paragraph 1 amended

613A.12 Officers and employees — personal liability. All officers and employees of municipalities are not personally liable for any claim which is exempted under section 613A.4, except a claim for punitive damages, and actions permitted under section 85.20. An officer or employee of a municipality is not liable for punitive damages as a result of acts in the performance of a law enforcement or emergency duty, unless actual malice or willful, wanton and reckless misconduct is proven.

(83 Acts, ch 130, § 2) SF 370

Amended

CHAPTER 614

LIMITATIONS OF ACTIONS

614.1 Period. Actions may be brought within the times herein limited, respectively, after their causes accrue, and not afterwards, except when otherwise specially declared:

1. *Penalties or forfeitures under ordinance.* Those to enforce the payment of a penalty or forfeiture under an ordinance, within one year.

2. *Injuries to person or reputation — relative rights — statute penalty.* Those founded on injuries to the person or reputation, including injuries to relative rights, whether based on contract or tort, or for a statute penalty, within two years.

3. *Against sheriff or other public officer.* Those against a sheriff or other public officer for the nonpayment of money collected on execution within three years of collection.

4. *Unwritten contracts — injuries to property — fraud — other actions.* Those founded on unwritten contracts, those brought for injuries to property, or for relief on the ground of fraud in cases heretofore solely cognizable in a court of chancery, and all other actions not otherwise provided for in this respect, within five years, except as provided by subsections 8 and 10.

5. *Written contracts — judgments of courts not of record — recovery of real property.* Those founded on written contracts, or on judgments of any courts except those provided for in the next subsection, and those brought for the recovery of real property, within ten years.

6. *Judgments of courts of record.* Those founded on a judgment of a court of record, whether of this or of any other of the United States, or of the federal courts of the United States, within twenty years.

7. *Judgment quieting title.* No action shall be brought to set aside a judgment or decree quieting title to real estate unless the same shall be commenced within ten years from and after the rendition thereof.

8. *Wages.* Those founded on claims for wages or for a liability or penalty for failure to pay wages, within two years.

9. *Malpractice.* Those founded on injuries to the person or wrongful death against any physician and surgeon, osteopath, osteopathic physician and surgeon,

dentist, podiatrist, optometrist, pharmacist, chiropractor, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, within two years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of, the injury or death for which damages are sought in the action, whichever of the dates occurs first, but in no event shall any action be brought more than six years after the date on which occurred the act or omission or occurrence alleged in the action to have been the cause of the injury or death unless a foreign object unintentionally left in the body caused the injury or death.

10. *Secured interest in farm products.* Those founded on a secured interest in farm products, within two years from the date of sale of the farm products against the secured interest of the creditor.

(83 Acts, ch 69, § 1, 2) HF 517

Subsection 4 amended

NEW subsection 10

CHAPTER 617

MANNER OF COMMENCING ACTIONS

617.3 Foreign corporations or nonresidents contracting or committing torts in Iowa. If the action is against any corporation or person owning or operating any railway or canal, steamboat or other rivercraft, or any telegraph, telephone, stage, coach, or carline, or against any express company, or against any foreign corporation, service may be made upon any general agent of such corporation, company, or person, wherever found, or upon any station, ticket, or other agent, or person transacting the business thereof or selling tickets therefor in the county where the action is brought; if there is no such agent in said county, then service may be had upon any such agent or person transacting said business in any other county.

If a foreign corporation makes a contract with a resident of Iowa to be performed in whole or in part by either party in Iowa, or if such foreign corporation commits a tort in whole or in part in Iowa against a resident of Iowa, such acts shall be deemed to be doing business in Iowa by such foreign corporation for the purpose of service of process or original notice on such foreign corporation under this section, and, if the corporation does not have a registered agent or agents in the state of Iowa, shall be deemed to constitute the appointment of the secretary of state of the state of Iowa to be its true and lawful attorney upon whom may be served all lawful process or original notice in actions or proceedings arising from or growing out of such contract or tort. If a nonresident person makes a contract with a resident of Iowa to be performed in whole or in part by either party in Iowa, or if such person commits a tort in whole or in part in Iowa against a resident of Iowa, such acts shall be deemed to be doing business in Iowa by such person for the purpose of service of process or original notice on such person under this section, and shall be deemed to constitute the appointment of the secretary of state of the state of Iowa to be the true and lawful attorney of such person upon whom may be served all lawful process or original notice in actions or proceedings arising from or growing out of such contract or tort. The term "nonresident person" shall include any person who was, at the time of the contract or tort, a resident of the state of Iowa but who removed from the state before the commencement of such action or proceedings and ceased to be a resident of Iowa or, a resident who has remained continuously absent from the state for at least a period of six months following commission of the tort. The making of the contract or the committing of the tort shall be deemed to be the agreement of such corporation or such person that any process or original notice so served shall be of the same legal force and effect as if served personally upon such defendant within the state of Iowa. The term "resident of Iowa" shall include any Iowa corporation, any foreign corporation holding a certificate of authority to transact business in Iowa, any individual

residing in Iowa, and any partnership or association one or more of whose members is a resident of Iowa.

Service of such process or original notice shall be made (1) by filing duplicate copies of said process or original notice with said secretary of state, together with a fee of ten dollars, and (2) by mailing to the defendant and to each of them if more than one, by registered or certified mail, a notification of said filing with the secretary of state, the same to be so mailed within ten days after such filing with the secretary of state. Such notification shall be mailed to each foreign corporation at the address of its principal office in the state or country under the laws of which it is incorporated and to each such nonresident person at an address in the state of residence. The defendant shall have sixty days from the date of such filing with the secretary of state within which to appear. Proof of service shall be made by filing in court the duplicate copy of the process or original notice with the secretary of state's certificate of filing, and the affidavit of the plaintiff or the plaintiff's attorney of compliance herewith.

The secretary of state shall keep a record of all processes or original notices so served upon him, recording therein the time of service and his actions with reference thereto, and he shall promptly return one of said duplicate copies to the plaintiff or his attorney, with a certificate showing the time of filing thereof in his office.

The original notice of suit filed with the secretary of state shall be in form and substance the same as provided in R.C.P. 381, form 3, Ia. Ct. Rules, 2nd ed.

The notification of filing shall be in substantially the following form, to wit:

"To (Here insert the name of each defendant with proper address.) You will take notice that an original notice of suit or process against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa by filing a copy of said notice or process on the day of, 19.... with the secretary of state of the state of Iowa.

Dated at, Iowa this day of, 19....

.....
Plaintiff
By

.....
Attorney for Plaintiff"

Actions against foreign corporations or nonresident persons as contemplated by this law may be brought in the county of which plaintiff is a resident, or in the county in which any part of the contract is or was to be performed or in which any part of the tort was committed.

(83 Acts, ch 101, § 123) SF 136
Unnumbered paragraphs 5 and 6 amended

CHAPTER 622 EVIDENCE

622.1 Witnesses — who competent. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.4 Transaction with person since deceased or mentally ill. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.5 Exceptions. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.6 Depositions taken conditionally. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.7 Husband or wife as witness. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.12 Judge as witness. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.17 Previous conviction. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.18 Moral character. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.19 Whole of a writing or conversation. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.20 Detached acts, declarations, or conversations. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.29 Facsimiles of signatures.

1. The judicial council shall prescribe rules and procedures for the use of a signature facsimile by a justice of the supreme court or a judge of the court of appeals, or a district judge, district associate judge, magistrate, clerk of the district court, county attorney, court reporter, or a law enforcement officer in all instances where a law of this state requires a written signature.

2. The judicial council shall prescribe rules and procedures for the use of a signature facsimile by a person other than an individual named in subsection 1, when directed and authorized by an individual named in subsection 1.

(83 Acts, ch 186, § 10112, 10201) SF 495

NEW section

622.37 Record or certified copy. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.38 Absence of seal. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.39 Retrospective. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.40 Presumption rebuttable. Repealed by 83 Acts, ch 37, § 7. (SF 504)

622.52 Effect on rules. Sections 622.53 through 622.63, are not a limitation of the Iowa rules of evidence.

(83 Acts, ch 37, § 3) SF 504

Struck and rewritten

622.53 Judicial record — state or federal courts. A judicial record of this state, including the filed certified shorthand notes of the official court reporter as transcribed or a court of the United States may be proved by the production of the original, or a copy of it certified by the clerk or person having the legal custody of it, authenticated by the custodian's seal of office, if there is a seal. That of another state may be proved by the attestation of the clerk and the seal of the court annexed, if there is a seal, together with a certificate of a judge, chief justice, or presiding magistrate that the attestation is in due form of law.

(83 Acts, ch 37, § 4) SF 504

Struck and rewritten

622.67 Deposit — effect. The court, for good cause shown, upon deposit with the clerk of the court of sufficient money to pay the fee and mileage of a witness, may order the clerk to issue a subpoena requiring the attendance of the witness from a greater distance within the state. The subpoena shall show that it is issued under this section. If the party requesting the subpoena is a county or the state, the court may order the issuance of the subpoena without the deposit of the fee and mileage.

(83 Acts, ch 186, § 10113, 10201) SF 495

Amended

622.68 Thirty-mile limit. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

622.73 Fees payable by county or city. Repealed by 83 Acts, ch 186, § 10201, 10203. (SF 495)

622.93 Applicability in certain counties. Proof of the publication of the filing in the district court of the petitions as provided for in section 618.13 and a charge on the basis of one dollar for each petition shall be made once each month by the publisher, presented to the clerk of the district court for verification and approval, and filed with the county auditor to be presented to the board of supervisors, which shall order the claim for the publications paid.

(83 Acts, ch 123, § 198, 209) HF 628

Amended

CHAPTER 622B

HEARING IMPAIRED PERSONS — INTERPRETERS

622B.7 Fee. An interpreter appointed under this chapter is entitled to a reasonable fee and expenses as determined by the rules applying to that proceeding. This schedule shall be furnished to all courts and administrative agencies and maintained by them. If the interpreter is appointed by the court, the fee and expenses shall be paid by the county and if the interpreter is appointed by an administrative agency, the fee and expenses shall be paid out of funds available to the administrative agency. If a hearing impaired person is not a party to the action, the fees and expenses of an interpreter shall be charged to costs.

(83 Acts, ch 123, § 199, 209) HF 628

Amended

CHAPTER 624

TRIAL AND JUDGMENT

624.14 Juror as witness — grounds to set aside verdict. If a juror has personal knowledge respecting a fact in controversy in a cause, the juror must declare the fact of the knowledge in accordance with Iowa rule of evidence 606(a), and the juror may not testify in the trial of the case in which the juror is sitting. Proof of such a declaration may be made by any juror in support of a motion to set aside a verdict.

(83 Acts, ch 37, § 5) SF 504

Amended

CHAPTER 625

COSTS

625.8 Jury and reporter fees.

1. The clerk of the district court shall tax as a court cost a jury fee of ten dollars in every action tried to a jury.

2. The clerk of the district court shall tax as a court cost a fee of fifteen dollars per day for the services of a court reporter.

3. Revenue from the fees required by this section shall be deposited in the court revenue distribution account established under section 602.8108.

(83 Acts, ch 186, § 10114, 10201) SF 495

Struck and rewritten

625.28 Definitions. As used in section 625.29, unless the context otherwise requires:

1. "*Fees and other expenses*" include the reasonable attorney fees and reasonable expenses of expert witnesses plus court costs, but they do not include any portion of an attorney's fees or salary paid by a unit of local, state, or federal government for the attorney's services in the case.

2. "*State*" includes the state of Iowa, an agency of the state, or any official of the state acting in an official capacity.

(83 Acts, ch 107, § 1, 3) SF 470

Applies only to legal and administrative agency proceedings initiated after July 1, 1983

NEW section

625.29 Fines — expenses.

1. Unless otherwise provided by law, and if the prevailing party meets the eligibility requirements of subsection 2, the court in a civil action brought by the state or an action for judicial review brought against the state pursuant to chapter 17A other than for a rule-making decision, shall award fees and other expenses to the prevailing party unless the prevailing party is the state. However, the court shall not make an award under this section if it finds one of the following:

- a. The position of the state was supported by substantial evidence.
- b. The state's role in the case was primarily adjudicative.
- c. Special circumstances exist which would make the award unjust.
- d. The action arose from a proceeding in which the role of the state was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent or to adjudicate a dispute or issue between private parties or to establish or fix a rate.
- e. The proceeding was brought by the state pursuant to titles 35 through 37.
- f. The proceeding involved eminent domain, foreclosure, collection of judgment debts, or was a proceeding in which the state was a nominal party.
- g. The proceeding involved the Iowa merit employment commission under chapter 19A.

h. The proceeding is a tort claim.

2. To be eligible for an award of fees and other expenses under this section, the prevailing party shall be one of the following:

- a. A natural person.
- b. A sole proprietorship, partnership, corporation, association, or public or private organization, any of which meets the following criteria:

(1) Its average daily employment was twenty persons or less for the twelve months preceding the filing of the action.

(2) Its gross receipts for the twelve-month period preceding the filing of the action were one million dollars or less, or its average gross receipts for the three twelve-month periods preceding the filing of the action were two million dollars or less.

3. A party seeking an award for fees and other expenses under this section must file a claim for relief as a part of the civil action or as a part of the action for judicial review brought against the state pursuant to chapter 17A. If the amount sought includes an attorney's fees or fees for an expert, the application shall include an itemized statement for these fees indicating the actual time expended in representing the party and the rate at which the fees were computed. The party seeking relief must establish that the state's case was not supported by substantial evidence.

4. The court, in its discretion, may reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

5. An award pursuant to this section shall not personally obligate any officer or employee of this state for payment.

6. Fees and other expenses awarded under this section may be ordered in addition to any compensation awarded in a judgment. When awarding fees and other expenses against the state under this section, the court shall order the auditor of state to issue a warrant drawn on the state general fund for the amount of the award. The treasurer of state shall pay the warrant. However, if the court finds that an agency of state government, against which fees and other expenses are awarded for an action for judicial review of an agency proceeding under chapter 17A, has acted in bad faith in initiating an action deemed frivolous or without merit, then the agency shall make the payment ordered from the moneys appropriated to that agency.

7. Each agency that pays fees or other expenses for an action for judicial review of an agency proceeding under chapter 17A shall report annually to the chairs and ranking members of the appropriate appropriations subcommittees of the general assembly the amount of fees or other expenses paid during the preceding fiscal year by that agency. In its report the agency shall describe the number, nature, and amount of the awards, the claims involved in the action, and other relevant information which might aid the general assembly in evaluating the scope and impact of these awards.

(83 Acts, ch 107, § 2, 3) SF 470

Applies only to legal and administrative agency proceedings initiated after July 1, 1983

NEW section

CHAPTER 628

REDEMPTION

628.4 Redemption prohibited. A party who has taken an appeal from the district court, or stayed execution on the judgment, is not entitled to redeem.

(83 Acts, ch 186, § 10115, 10201) SF 495

Amended

CHAPTER 631

SMALL CLAIMS

631.1 Small claims.

1. The following actions or claims are small claims and shall be commenced, heard and determined as provided in this chapter:

A civil action for a money judgment where the amount in controversy is two thousand dollars or less, exclusive of interest and costs.

2. The district court sitting in small claims shall have concurrent jurisdiction of an action for forcible entry and detainer which is based on those grounds set forth in section 648.1, subsections 1, 2, 3 and 5. When commenced under this chapter, the action shall be a small claim for the purposes of this chapter.

(83 Acts, ch 63, § 1, 5) HF 315

Jurisdictional amount to revert to \$1,000 if a proper court declares the \$2,000 amount excessive for a court which does not provide a jury trial

Subsection 1 amended

631.2 Jurisdiction and procedures.

1. The district court sitting in small claims shall exercise the jurisdiction conferred by this chapter, and shall determine small claims according to the statutes and the rules prescribed by this chapter. Except when transferred from the small claims docket as provided in section 631.8, small claims may be tried by a judicial magistrate, a district associate judge, or a district judge.

2. The clerk of the district court shall maintain a separate small claims docket, and which shall contain all matters relating to small claims which are required by

section 602.8104, subsection 2, paragraph "f", to be contained in a combination docket.

3. Statutes and rules relating to venue and jurisdiction shall apply to small claims, except that a provision of this chapter which is inconsistent therewith shall supersede that statute or rule.

(83 Acts, ch 186, § 10116, 10201) SF 495

Subsection 2 amended

(83 Acts, ch 101, § 124) SF 136

See Code editor's note at the end of this Supplement

Subsection 2 amended

631.3 Commencement of actions — clerk to furnish forms — subpoena.

1. All actions shall be commenced by the filing of an original notice with the clerk. At the time of filing, the clerk shall enter on the original notice and the copies to be served, the file number and the date the action is filed.

2. The clerk shall furnish standard forms as provided in section 631.15, as such pleadings may be required. The clerk may furnish information to any party to enable him to complete a form.

3. The clerk shall cause to be entered upon each copy of the original notice and in the docket the day for appearance, which date shall be determined in accordance with section 631.4. Appearance dates shall be set only for days on which the office of the clerk is scheduled to be open.

4. Upon the request of a party to the action, the clerk or a judicial officer shall issue subpoenas for the attendance of witnesses at a hearing. Sections 622.63 to 622.67, 622.69, 622.76 and 622.77 apply to subpoenas issued pursuant to this chapter.

(83 Acts, ch 186, § 10117, 10201) SF 495

Subsection 4 amended

631.6 Fees and costs. All fees and costs required to be paid in small claims actions shall be paid in advance, and shall be assessed as costs in the action.

1. The docket fee for a small claims action is ten dollars. Other fees imposed for small claims shall be the same as those required in regular actions in district court, four dollars of the fee shall remain in the county treasury for the use of the county and six dollars of the fee shall be paid into the state treasury.

2. Postage for the mailing of original notices shall be the actual cost of the postage.

3. Fees for personal service by peace officers or other officials of the state shall be the amounts specified by law.

4. Fees for service of notice on nonresidents shall be as provided in section 617.3.

All fees and costs collected in small claims actions shall be deposited in the court revenue distribution account established under section 602.8108, except that the fee specified in subsection 4 of this section shall be remitted to the secretary of state.

(83 Acts, ch 63, § 2, 3, 4) HF 315

Fees collected and remitted to the state prior to July 1, 1983, are legal

See Code editor's note at the end of this Supplement

Subsection 1 and unnumbered paragraph 2 (following subsection 4) amended

(83 Acts, ch 101, § 125) SF 136

Unnumbered paragraph 2 amended

(83 Acts, ch 186, § 10118, 10201) SF 495

Subsection 4, unnumbered paragraph 2 amended

631.15 Standard forms. The supreme court shall prescribe standard forms of pleadings to be used in small claims actions. Standard forms promulgated by the supreme court shall be the exclusive forms used.

(83 Acts, ch 101, § 126) SF 136

Amended

CHAPTER 633

PROBATE CODE

633.13 Extent of jurisdiction. The court of the county in which a will is probated, or in which administration, conservatorship or guardianship is granted, shall have jurisdiction coextensive with the state in the settlement of the estate, and in the sale and distribution thereof.

A district judge has statewide jurisdiction to enter orders in probate matters not requiring notice and hearing, although the judge is not a judge of or present in the district in which the probate matter is pending. The orders shall be made in conformity with the rules of the district in which the probate matter is pending.

(83 Acts, ch 186, § 10119, 10201) SF 495
NEW unnumbered paragraph 2

633.17 Judge disqualified — procedure. When a judge is disqualified from acting in a probate matter, the matter shall be heard before another judge of the same district, or shall be transferred to the court of another district, or a judge of another district shall be procured to hold court for the hearing of the matter.

(83 Acts, ch 186, § 10120, 10201) SF 495
Amended

633.18 Rules in probate.

1. Actions and proceedings under this chapter are subject to rules prescribed by the supreme court under section 602.4201.

2. The district judges of a judicial district acting under section 602.1213 may prescribe rules for probate actions and proceedings within the district, but these rules must be consistent with this chapter, and are subject to the approval of the supreme court.

(83 Acts, ch 186, § 10121, 10201) SF 495
Struck and rewritten

633.20 Referee — examination of accounts — clerk.

1. The court may appoint a referee in probate for the auditing of the accounts of fiduciaries and for the performance of other ministerial duties the court prescribes. A person shall not be appointed as referee in a matter where the person is acting as a fiduciary or as the attorney.

2. The court may appoint the clerk as referee in probate. In such cases, the fees received by the clerk for serving in the capacity of referee are fees of the office of the clerk of court and shall be deposited in the court revenue distribution account established under section 602.8108.

(83 Acts, ch 186, § 10122, 10201) SF 495
Amended and NEW subsection 2 added

633.21 Appraisers' fees and referees' fees fixed by rule. The district judges of each judicial district shall by rule fix the fees of probate referees, and also provide, insofar as practicable, a uniform schedule of compensation for inheritance tax appraisers, other appraisers, brokers, and agents employed at estate expense.

(83 Acts, ch 186, § 10123, 10201) SF 495
Amended

633.31 Calendar — fees in probate.

1. The clerk shall keep a court calendar, and enter thereon such matters as the court may prescribe.

2. The clerk shall charge and collect the following fees in connection with probate matters, which shall be deposited in the court revenue distribution account established under section 602.8108:

a. For services performed in short form probates pursuant to sections 450.22 and 450.44 \$10.00

| | |
|---|-------|
| b. For services performed in probate of will without administration..... | 10.00 |
| c. For filing and indexing a transcript..... | 3.00 |
| d. For taking and approving a bond, or the sureties on a bond..... | 2.00 |
| e. For entering a rule or order..... | 1.00 |
| f. For certificate and seal..... | 2.00 |
| g. For making a complete record where real estate is sold | |
| per 100 words | .20 |
| h. For making a transcript or copies of orders or records filed in his office..... | |
| per 100 words | .50 |
| i. For certifying change of title..... | 2.00 |
| j. For issuing commission to appraisers | 2.00 |
| k. For other services performed in the settlement of the estate of any decedent, minor, insane person, or other persons laboring under legal disability, except where actions are brought by the administrator, guardian, trustee, or person acting in a representative capacity or against him, or as may be otherwise provided herein, where the value of the personal property and real estate of such a person falls within the following indicated amounts, the fee opposite such amount shall be charged. | |
| Up to \$3,000.00..... | 5.00 |
| 3,000.00 to 5,000.00..... | 10.00 |
| 5,000.00 to 7,000.00 | 15.00 |
| 7,000.00 to 10,000.00 | 20.00 |
| 10,000.00 to 15,000.00..... | 25.00 |
| 15,000.00 to 25,000.00..... | 30.00 |
| For each additional \$25,000.00 or major fraction thereof..... | 20.00 |
| l. For services performed in small estate administration | 10.00 |

(83 Acts, ch 186, § 10124, 10201) SF 495

Subsection 2, unnumbered paragraph 1 amended

633.361 Inventory and report. Within sixty days after his qualification, unless a longer time shall be granted by the court, the personal representative shall file with the clerk, in duplicate, a verified, or affirmed under penalty of perjury, full and detailed report and inventory of the property of the deceased, so far as the same has come to his knowledge, as follows:

1. Name, age and last residence of decedent.
2. Date of death.
3. Whether decedent died testate or intestate.
4. Name and post-office address of personal representative.
5. Name, age and post-office address of surviving spouse, if any.
6. If testate, name, age, relationship and post-office address of each beneficiary under will.
7. If testate, the name, age and address of each child, if any, born to or adopted by decedent after execution of the will.
8. If intestate, name, age, relationship and post-office address of each heir.
9. Inventory of all the real estate of the decedent in the state of Iowa, giving value and accurate description of each tract.
10. Any real property located outside of the state of Iowa not otherwise reported.
11. Personal property regarded as exempt from execution.
12. All other personal property.
13. All property whether subject to probate or not, not otherwise listed which is subject to the Iowa inheritance tax as provided in chapter 450.
14. In estates of decedents dying on or after January 1, 1977, a statement as to whether or not there is any property not therein inventoried required to be reported for federal estate and gift tax purposes, and specifically,
 - a. The amount of gifts made after September 8, 1976, and prior to January 1, 1977, and the amount of specific gift tax exemption taken; and
 - b. The amount of gifts exceeding three thousand dollars per donee made after

December 31, 1976, and more than three years prior to the date of death, and the amount of unified credit claimed; and

c. The amount of gifts made within the three years prior to the date of death and the amount of unified credit claimed.

(83 Acts, ch 177, § 36, 38) SF 635

Applies to estates of persons dying on or after July 1, 1983

Unnumbered paragraph 2 (last paragraph) struck

633.376 Allowance to children who do not reside with surviving spouse. The court may also make an allowance to a child of the decedent who is less than eighteen years of age or who is between the ages of eighteen and twenty-two years who is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or area school; or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; or a child of any age who is dependent because of physical or mental disability; who does not reside with the surviving spouse, of an amount it deems reasonable in the light of the assets and condition of the estate, to provide for the child's proper support during the period of twelve months.

(83 Acts, ch 101, § 127) SF 136

Amended

633.474 Certificate as to payment of personal taxes. Repealed by 83 Acts, ch 44, § 2. (HF 243)

633.479 Discharge. Upon final settlement of an estate, an order shall be entered discharging the personal representative from further duties and responsibilities. The order approving the final report shall constitute a waiver of the omission from the final report of any of the recitals required in section 633.477.

An order approving the final report and discharging the personal representative shall not be required if all distributees otherwise entitled to notice are adults, under no legal disability, have signed waivers of notice as provided in section 633.478, have signed statements of consent agreeing that the prayer of the final report shall constitute an order approving the final report and discharging the personal representative, and if the statements of consent are dated not more than thirty days prior to the date of the final report, and if compliance with sections 422.27 and 450.58 have been fulfilled and receipts and certificates are on file. In those instances final order shall not be required and the prayer of the final report shall be considered as granted and shall have the same force and effect as an order of discharge of the personal representative and an order approving the final report. The clerk shall comply with section 633.480 with respect to issuing a change of title.

(83 Acts, ch 44, § 1) HF 243

Amended

633.545 Sale — proceeds. If within six months from the giving of notice, a claimant does not appear, the property may be sold and the proceeds paid over by the personal representative to the state comptroller for the benefit of the permanent school fund.

(83 Acts, ch 185, § 56, 62) HF 562

Effective July 1, 1984; for law in effect until that date see 1983 Code

Amended

CHAPTER 644

LOST PROPERTY

644.15 Proceeds — forfeiture. *The net proceeds of sales made by the sheriff, and money or bank notes paid over to the county treasurer, as directed in this chapter, shall remain in the hands of the county treasurer in trust for the owner, if the owner applies within one year from the time the proceeds, moneys, or bank notes would have been paid over. However, if no owner appears within that time, the proceeds, moneys, or bank notes shall be forfeited, and the claim of the owner is forever barred, in which event the money shall be paid to the clerk of district court who shall pay the money to the treasurer of state for distribution under section 602.8107.*

(83 Acts, ch 186, § 10125, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

644.15 Proceeds — forfeiture. The net proceeds of sales made by the sheriff, and money or bank notes paid over to the county treasurer, as directed in this chapter, shall remain in the hands of the county treasurer in trust for the owner, if the owner applies within one year from the time the proceeds, moneys, or bank notes would have been paid over. However, if no owner appears within that time, the proceeds, moneys, or bank notes shall be forfeited, and the claim of the owner is forever barred, in which event the money shall be paid to the treasurer of state for deposit in the general fund of the state.

(83 Acts, ch 185, § 57, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

CHAPTER 663A

POSTCONVICTION PROCEDURE

663A.2 Situations where law applicable. Any person who has been convicted of, or sentenced for, a public offense and who claims that:

1. The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state;
2. The court was without jurisdiction to impose sentence;
3. The sentence exceeds the maximum authorized by law;
4. There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. The person's sentence has expired, or probation, parole, or conditional release has been unlawfully revoked, or the person is otherwise unlawfully held in custody or other restraint;
6. The person's reduction of sentence pursuant to sections 903A.1 through 903A.7 has been unlawfully forfeited and the person has exhausted the appeal procedure of section 903A.3, subsection 2; or
7. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error formerly available under any common law, statutory or other writ, motion, petition, proceeding, or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief.

This remedy is not a substitute for nor does it affect any remedy, incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies formerly available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

(83 Acts, ch 147, § 10, 14) SF 302

Applies only to inmates sentenced for offenses committed after July 1, 1983

Subsection 6 struck and rewritten

CHAPTER 666

OFFICIAL BONDS, FINES AND FORFEITURES

666.3 Fines and forfeitures. *Fines and forfeitures, after deducting court costs, court expenses collectible through the clerk of the court, and fees of collection, if any, and not otherwise disposed of, shall be paid to the treasurer of state for distribution under section 602.8107.*

(83 Acts, ch 186, § 10126, 10201, 10204) SF 495

See following amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

666.3 Fines and forfeitures. Fines and forfeitures, after deducting court costs, court expenses collectible through the clerk of the court, and fees of collection, if any, and not otherwise disposed of, shall be paid to the treasurer of state for deposit in the general fund of the state.

(83 Acts, ch 185, § 58, 62) HF 562

Effective July 1, 1984

Prevails over SF 495; 83 Acts, ch 186, § 10204 (SF 495)

See preceding amendment and Code editor's note to section 32.2 at the end of this Supplement
Amended

666.6 Report of forfeited bonds. *The clerk of the district court shall make an annual report in writing to the supreme court on the first Monday in January of all forfeited recognizances in the clerk's office; of all fines, penalties, and forfeitures imposed in the district court; in what cause or proceeding, when and for what purpose, against whom and for what amount, rendered; whether the fines, penalties, forfeitures, and recognizances have been paid, remitted, canceled, or otherwise satisfied; if so, when, how, and in what manner, and if not paid, remitted, canceled, or otherwise satisfied, what steps have been taken to enforce the collection of the fines, penalties, forfeitures, and recognizances.*

The report shall be full, true, and complete with reference to the matters contained in the report and all things required by this section to be reported, and the report shall be under oath. A clerk failing to make the report as required by this section is guilty of a simple misdemeanor.

(83 Acts, ch 186, § 10127, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

See following amendment

Amended

666.6 Report of forfeited bonds. Not later than January 15 of each year, the clerk of district court shall make an annual report in writing to the treasurer of state of all forfeited recognizances in the clerk's office; of all fines, penalties, and forfeitures imposed in the district court, which by law are paid to the treasurer of state for deposit in the general fund of the state; in what cause or proceeding, when and for what purpose, against whom and for what amount, rendered; whether the fines, penalties, forfeitures, and recognizances have been paid, remitted, canceled, or otherwise satisfied; if so, when, how, and in what manner, and if not paid, remitted, canceled, or otherwise satisfied, what steps have been taken to enforce the collection of the fines, penalties, forfeitures and recognizances. However, the report shall only contain information not already reported on a monthly basis.

Such report must be full, true, and complete with reference to the matters therein contained, and of all things required by this section to be reported, and be under oath, and any officer failing to make such report shall be guilty of a simple misdemeanor.

(83 Acts, ch 185, § 59, 62) HF 562

Effective July 1, 1984

See preceding amendment; corrective legislation regarding reports may be required

Unnumbered paragraph 1 amended

CHAPTER 675

PATERNITY OF CHILDREN AND OBLIGATION OF PARENTS

(Chapter title changed)

675.29 Desertion statute applicable. The provisions of sections 726.3 through 726.5 relating to desertion and abandonment of children, have the same effect in cases of illegitimacy where paternity has been judicially established, or has been acknowledged by the father in writing or by the furnishing of support, as in cases of children born in wedlock.

(83 Acts, ch 101, § 128) SF 136

Amended

675.38 Recipients of public assistance — assignment of support payments. A person entitled to periodic support payments pursuant to an order or judgment entered in a paternity action under this chapter, who is also a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of human services. The department shall immediately notify the clerk of court by mail when a person entitled to support payments has been determined to be eligible for public assistance. Upon notification by the department that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. The clerk of court shall forward support payments received pursuant to section 675.25, to which the department is entitled, to the department, which may secure support payments in default through proceedings prescribed in chapter 252A or section 675.37. The clerk shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when the parties are receiving public assistance.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 684

SUPREME COURT AND COURT OF APPEALS

Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495)

CHAPTER 684A

QUESTIONS OF LAW IN SUPREME COURT CERTIFIED

684A.6 Procedure. The supreme court may prescribe rules of procedure concerning the answering and certification of questions of law under this chapter, subject to section 602.4202.

(83 Acts, ch 186, § 10128, 10201) SF 495

Amended

CHAPTER 685

CLERK OF THE SUPREME COURT AND COURT ADMINISTRATOR

Repealed by 83 Acts, ch 186, § 10201, 10203 (SF 495)

CHAPTER 690

BUREAU OF CRIMINAL IDENTIFICATION

690.4 Fingerprints and photographs at institutions. It shall be the duty of the wardens of the penitentiary and men's reformatory, and superintendents of the Iowa correctional institution for women, and the state training school to take or procure the taking of the fingerprints, and, in the case of the penitentiary, men's reformatory, and Iowa correctional institution for women only, Bertillon photographs of any person received on commitment to their respective institutions, and to forward such fingerprint records and photographs within ten days after the same are taken to the division of criminal investigation and bureau of identification, Iowa department of public safety, and to the federal bureau of investigation.

It shall also be the duty of the wardens and superintendents to procure the taking of five- by seven-inch photographic negative showing a full length view of each convict, prisoner or inmate of the penitentiary, men's reformatory, and Iowa correctional institution for women in the inmate's release clothing immediately prior to the inmate's discharge from the institution either upon expiration of sentence or commitment or on parole, and to forward the photographic negative within two days after it is taken to the division of criminal investigation and bureau of identification, Iowa department of public safety.

(83 Acts, ch 96, § 116, 159) SF 464

Effective October 1, 1983

Unnumbered paragraph 2 amended

CHAPTER 692

CRIMINAL HISTORY AND INTELLIGENCE DATA

692.1 Definitions of words and phrases. As used in this chapter, unless the context otherwise requires:

1. "*Department*" means the department of public safety.
2. "*Bureau*" means the department of public safety, division of criminal investigation and bureau of identification.
3. "*Criminal history data*" means any or all of the following information maintained by the department or bureau in a manual or automated data storage system and individually identified:
 - a. Arrest data.
 - b. Conviction data.
 - c. Disposition data.
 - d. Correctional data.
4. "*Arrest data*" means information pertaining to an arrest for a public offense and includes the charge, date, time and place. Arrest data includes arrest warrants for all public offenses outstanding and not served and includes the filing of charges, by preliminary information when filed by a peace officer or law enforcement officer or indictment, the date and place of alleged commission and county of jurisdiction.
5. "*Conviction data*" means information that a person was convicted of or entered a plea of guilty to a public offense and includes the date and location of commission and place and court of conviction.
6. "*Disposition data*" means information pertaining to a recorded court proceed-

ing subsequent and incidental to a public offense arrest and includes dismissal of the charge, suspension or deferral of sentence.

7. "Correctional data" means information pertaining to the status, location, and activities of persons under the supervision of the county sheriff, the Iowa department of corrections, the board of parole, or any other state or local agency performing the same or similar function, but does not include investigative, sociological, psychological, economic, or other subjective information maintained by the Iowa department of corrections or board of parole.

8. "Public offense" as used in subsections 4, 5 and 6 does not include nonindictable offenses under either chapter 321 or local traffic ordinances.

9. "Individually identified" means criminal history data which relates to a specific person by one or more of the following means of identification:

- a. Name and alias, if any.
- b. Social security number.
- c. Fingerprints.
- d. Other index cross-referenced to paragraph "a", "b", or "c."
- e. Other individually identifying characteristics.

10. "Criminal justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders.

11. "Intelligence data" means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity.

12. "Surveillance data" means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person.

13. "Criminal investigative data" means information collected in the course of an investigation where there are reasonable grounds to suspect that specific criminal acts have been committed by a person.

(83 Acts, ch 96, § 117, 159) SF 464

Effective October 1, 1983

Subsection 7 amended

(83 Acts, ch 113, § 1) SF 349

Subsection 10 amended

692.2 Dissemination of criminal history data.

1. Except in cases in which members of the department are participating in an investigation or arrest, the department and bureau may provide copies or communicate information from criminal history data only to the following:

- a. Criminal justice agencies.
- b. Other public agencies as authorized by the confidential records council.
- c. The department of human services for the purposes of section 237.8, subsection 2 and section 237A.5.

In cases in which members of the department are participating in the investigation or arrest, or where officers of other criminal justice agencies participating in the investigation or arrest consent, the department may disseminate criminal history data and intelligence data when the dissemination complies with section 692.3.

2. The bureau shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

3. Persons authorized to receive information under subsection 1 shall request and may receive criminal history data only when both of the following apply:

- a. The data is for official purposes in connection with prescribed duties or required pursuant to section 237.8, subsection 2 or section 237A.5.
- b. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

4. The provisions of this section and section 692.3 which relate to the requiring

of an individually identified request prior to the dissemination or redissemination of criminal history data do not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including but not limited to, the offense and the date and place of alleged commission, individually identifying characteristics of the person to be arrested, and the court or jurisdiction issuing the warrant.

(83 Acts, ch 113, § 2, 3) SF 349

Subsection 1 amended and NEW unlettered paragraph added

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 1, paragraph c amended

692.3 Redissemination.

1. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate criminal history data outside the agency, received from the department or bureau, unless all of the following apply:

a. The data is for official purposes in connection with prescribed duties of a criminal justice agency.

b. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination.

c. The request for data is based upon name, fingerprints, or other individual identification characteristics.

2. Notwithstanding subsection 1, paragraph "a", the department of human services shall redisseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "c", to persons licensed or registered under chapters 237 and 237A for the purposes of section 237.8, subsection 2 and section 237A.5. Licensees and registrants under either chapter 237 or chapter 237A who receive information pursuant to this subsection shall not use the information other than for purposes of section 237.8, subsection 2 or section 237A.5. A licensee or registrant who uses the information for other purposes or who communicates the information to another except for the purposes of section 237.8, subsection 2 or section 237A.5 is guilty of an aggravated misdemeanor.

3. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate intelligence data outside the agency, received from the department or bureau or from any other source, except as provided in subsection 1.

(83 Acts, ch 153, § 22) SF 541

Subsection 2 amended

(83 Acts, ch 96, § 157, 159) SF 464

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 2 amended

CHAPTER 693

POLICE RADIO BROADCASTING SYSTEM

693.4 Duty of supervisors to install — costs. The board of supervisors of each county shall install in the office of the sheriff a radio receiving set, and a set in at least one motor vehicle used by the sheriff, for use in connection with the state radio broadcasting system. The board of supervisors may install as many additional radio receiving sets as it deems necessary.

(83 Acts, ch 123, § 200, 209) HF 628

Amended

CHAPTER 707

MURDER

707.2 Murder in the first degree. A person commits murder in the first degree when he or she commits murder under any of the following circumstances:

1. The person willfully, deliberately, and with premeditation kills another person.
2. The person kills another person while participating in a forcible felony.
3. The person kills another person while escaping or attempting to escape from lawful custody.
4. The person intentionally kills a peace officer, correctional officer, public employee, or hostage while the person is imprisoned in a correctional institution under the jurisdiction of the Iowa department of corrections, or in a city or county jail.

Murder in the first degree is a class "A" felony.

(83 Acts, ch 96, § 118, 159) SF 464

Effective October 1, 1983

Subsection 4 amended

CHAPTER 708

ASSAULT

708.7 Harassment. A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:

1. Communicates with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.
2. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by such person.
3. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.
4. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.
5. Reports or causes to be reported false information to the department of human services, alleging that a person has abused a child, knowing that the information is false, or who reports the alleged occurrence of child abuse knowing that the child abuse did not occur.

Harassment is a simple misdemeanor.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 5 amended

CHAPTER 714

THEFT

714.2 Degrees of theft.

1. The theft of property exceeding five thousand dollars in value, or the theft of property from the person of another, or from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing, or the proximity of battle, or the theft of property which has been removed from a building because of a physical disaster, riot, bombing, or the proximity of battle, is theft in the first degree. Theft in the first degree is a class "C" felony.

2. The theft of property exceeding five hundred dollars but not exceeding five thousand dollars in value or theft of a motor vehicle as defined in chapter 321 not exceeding five thousand dollars in value, is theft in the second degree. Theft in the second degree is a class "D" felony. However, for purposes of this subsection, "motor vehicle" does not include a motorized bicycle as defined in section 321.1, subsection 3, paragraph "b".

3. The theft of property exceeding one hundred dollars but not exceeding five hundred dollars in value, or the theft of any property not exceeding one hundred dollars in value by one who has before been twice convicted of theft, is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property exceeding fifty dollars in value but not exceeding one hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding fifty dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

(83 Acts, ch 134, § 1) HF 581

Subsection 2 amended

714.16 Consumer frauds.

1. Definitions:

a. The term "advertisement" includes the attempt by publication, dissemination, solicitation or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise;

b. The term "merchandise" includes any objects, wares, goods, commodities, intangibles, securities, bonds, debentures, stocks, real estate or services;

c. The term "person" includes any natural person or his legal representative, partnership, corporation (domestic and foreign), company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof;

d. The term "sale" includes any sale, offer for sale, or attempt to sell any merchandise for cash or on credit;

e. The term "subdivided lands" refers to improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels; provided, however, it does not apply to the leasing of apartments, offices, stores or similar space within an apartment building, industrial building or commercial building unless an undivided interest in the land is granted as a condition precedent to occupying space in said structure.

2. a. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice.

"Material fact" as used in this subsection does not include repairs of damage to or adjustments on or replacements of parts with new parts of otherwise new merchandise if the repairs, adjustments or replacements are made to achieve compliance with factory specifications and are made before sale of the merchandise at retail and the actual cost of any labor and parts charged to or performed by a retailer for any such repairs, adjustments and parts does not exceed three hundred dollars or ten percent of the actual cost to a retailer including freight of the merchandise, whichever is less, providing that the seller posts in a conspicuous place notice that repairs, adjustments or replacements will be disclosed upon request. The exemption provided in this paragraph does not apply to the concealment, suppression or omission of a material fact if the purchaser requests disclosure of any repair, adjustment or replacement.

b. The advertisement for sale, lease or rent, or the actual sale, lease, or rental

of any merchandise at a price or with a rebate or payment or other consideration to the purchaser which is contingent upon the procurement of prospective customers provided by the purchaser, or the procurement of sales, leases, or rentals to persons suggested by the purchaser, is declared to be an unlawful practice rendering any obligation incurred by the buyer in connection therewith, completely void and a nullity. The rights and obligations of any contract relating to such contingent price, rebate, or payment shall be interdependent and inseverable from the rights and obligations relating to the sale, lease, or rental.

c. It shall be unlawful for any person to advertise the sale of merchandise at reduced rates due to the cessation of business operations and after the date of the first such advertisement remain in business under the same, or substantially the same, ownership, under the same, or substantially the same trade name, or continue to offer for sale the same type of merchandise at the same location for more than one hundred twenty days.

d. (1) No person shall offer or advertise within this state for sale or lease, any subdivided lands without first filing with the real estate commission, true and accurate copies of all road plans, plats, field notes and diagrams of water, sewage and electric power lines as they exist at the time of such filing, provided such filing shall not be required for a subdivision subject to section 306.21 or chapter 409. Each such filing shall be accompanied by a fee of fifty dollars for each subdivision included, payable to the real estate commission.

(2) False or misleading statements filed pursuant to subparagraph 1 of paragraph "d" of this subsection or section 306.21 or chapter 409, and advertising, offers to sell, or contracts not in substantial conformity with the filings made pursuant to section 306.21 or chapter 409 are unlawful.

e. Any violations of chapter 123 or any other provisions of law by a manufacturer, distiller, vintner, importer, or any other person participating in the distribution of alcoholic liquor or beer as defined in chapter 123.

f. A violation of a provision of sections 535C.1 through 535C.10 is an unlawful practice.

3. When it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this section or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

a. Require such person to file on such forms as he may prescribe a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;

b. Examine under oath any person in connection with the sale or advertisement of any merchandise;

c. Examine any merchandise or sample thereof, record, book, document, account or paper as he may deem necessary; and

d. Pursuant to an order of a district court impound any record, book, document, account, paper, or sample of merchandise that is produced in accordance with this section, and retain the same in his possession until the completion of all proceedings in connection with which the same are produced.

4. a. To accomplish the objectives and to carry out the duties prescribed by this section, the attorney general, in addition to other powers conferred upon him by this section, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules as may be necessary, which rules shall have the force of law.

b. No information or evidence provided the attorney general by a person pursuant to subsections 3 and 4 of this section shall be admitted in evidence, or used in

any manner whatsoever, in any criminal prosecution. If a criminal prosecution under the provisions of this section is initiated in a state court against a person who has provided information pursuant to subsections 3 and 4 of this section, the state shall have the burden of proof that the information so provided was not used in any manner to further the criminal investigation or prosecution.

c. In any civil action brought pursuant to this chapter, the attorney general shall have the right to require any defendant to give testimony, and no criminal prosecution based upon transactions or acts about which he is questioned and required to give testimony shall thereafter be brought against such defendant.

5. Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this state, but if such cannot be obtained, substituted service therefor may be made in the following manner:

a. Personal service thereof without this state; or

b. The mailing thereof by registered mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or

c. As to any person other than a natural person, in the manner provided in the Rules of Civil Procedure as if a petition had been filed; or

d. Such service as a district court may direct in lieu of personal service within this state.

6. If any person fails or refuses to file any statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to a district court and, after hearing thereof, request an order:

a. Granting injunctive relief, restraining the sale or advertisement of any merchandise by such persons;

b. Dissolving a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and

c. Granting such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

7. Whenever it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any practice declared to be unlawful by this section he may seek and obtain in an action in a district court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any prohibited practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal which may have been acquired by means of any practice in this section declared to be unlawful including the appointment of a receiver in cases of substantial and willful violation of the provisions of this section.

8. When a receiver is appointed by the court pursuant to this section, he shall have the power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by this section, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practices and submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. In

the case of a partnership or business entity, the receiver shall settle the estate and distribute the assets under the direction of the court. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

9. Subject to an order of the court terminating the business affairs of any person after receivership proceedings held pursuant to this section, the provisions of this section shall not bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

10. In any action brought under the provisions of this section, the attorney general is entitled to recover costs for the use of this state.

11. If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions of applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

12. Nothing contained in this section shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser; and provided, further, that nothing herein contained shall apply to any advertisement which complies with the rules and regulations of, and the statutes administered by the federal trade commission.

(83 Acts, ch 146, § 12) SF 336

Subsection 2 amended by adding NEW paragraph f

CHAPTER 715

FALSE USE OF A FINANCIAL INSTRUMENT

715.6 False use of a financial instrument — penalties. The use of a financial instrument with the intent to obtain fraudulently anything of value by a user who knows that the instrument is not what it purports to be, or who knows that the user is not the person nor the authorized agent of the person who, as shown on the instrument, has the right to so use the instrument, constitutes the false use of a financial instrument.

False use of a financial instrument as defined in section 715.1, subsection 2, 3, or 4, is false use of a financial instrument in the first degree. False use of a financial instrument as defined in section 715.1, subsection 1, to obtain property one hundred dollars or more in value, is false use of a financial instrument in the first degree. False use of a financial instrument in the first degree is a class "D" felony.

False use of a financial instrument as defined in section 715.1, subsection 1, to obtain property not exceeding one hundred dollars in value, is false use of a financial instrument in the second degree. False use of a financial instrument in the second degree is an aggravated misdemeanor.

The value of property for purposes of this section is its normal market or exchange value within the community at the time of the false use of a financial instrument with intent to obtain the property. If money or property is sought to be obtained by a series of false uses of financial instruments from the same person or location, or from different persons by a series of false uses of financial instruments which occur in approximately the same location or time period so that the attempts to obtain property are attributable to a single scheme, plan or conspiracy, such false uses of financial instruments may be considered a single false use of a financial instrument and the value may be the total value of all the property sought to be obtained.

(83 Acts, ch 183, § 1) HF 652

Amended, and NEW unnumbered paragraphs 3 and 4 added

CHAPTER 716

DAMAGE AND TRESPASS TO PROPERTY

716.5 Criminal mischief in the third degree. Criminal mischief is criminal mischief in the third degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds two hundred dollars, but does not exceed five hundred dollars, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if the act consists of rendering substantially less effective than before any light, signal, obstruction, barricade, or guard which has been placed or erected for the purpose of enclosing any unsafe or dangerous place or of alerting persons to an unsafe or dangerous condition. Criminal mischief in the third degree is an aggravated misdemeanor.

A person commits criminal mischief in the third degree who does either of the following:

1. Intentionally disinters human remains from a burial site without lawful authority.
2. Intentionally disinters human remains that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the United States without the permission of the state archaeologist.

(83 Acts, ch 99, § 1) SF 76

Unnumbered paragraph 1 amended

716.6 Criminal mischief in the fourth and fifth degrees. Criminal mischief is criminal mischief in the fourth degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds one hundred dollars, but does not exceed two hundred dollars. Criminal mischief in the fourth degree is a serious misdemeanor. All criminal mischief which is not criminal mischief in the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

(83 Acts, ch 99, § 2) SF 76

Amended

CHAPTER 719

OBSTRUCTING JUSTICE

719.4 Escape from custody.

1. A person convicted of a felony, or charged with or arrested for the commission of a felony, who intentionally escapes from any detention facility or institution to which the person has been committed by reason of such conviction, charge, or arrest, or from the custody of any public officer or employee to whom the person has been entrusted, commits a class "D" felony.

2. A person convicted of, charged with, or arrested for a misdemeanor, who intentionally escapes from any detention facility or institution to which the person has been committed by reason of such conviction, charge, or arrest, or from the custody of any public officer or employee to whom the person has been entrusted, commits a serious misdemeanor.

3. A person who has been committed to an institution under the control of the Iowa department of corrections, or to a jail or correctional institution, who knowingly and voluntarily absents himself or herself from a place where the person is required to be, commits a serious misdemeanor.

4. A person who flees from the state to avoid prosecution for a public offense which is a felony or aggravated misdemeanor commits a class "D" felony.

(83 Acts, ch 96, § 119, 159) SF 464

Effective October 1, 1983

Subsection 3 amended

719.7 Furnishing intoxicant to inmates. A person not authorized by law who furnishes or knowingly makes available an intoxicating beverage to an inmate at a detention facility, correctional institution, or an institution under the management of the Iowa department of corrections, or who introduces an intoxicating beverage into the premises of such an institution, commits a class "D" felony.

(83 Acts, ch 96, § 120, 159) SF 464

Effective October 1, 1983

Amended

719.8 Furnishing controlled substance to inmates. A person not authorized by law who furnishes or knowingly makes available a controlled substance to an inmate at a detention facility or correctional institution, or at an institution under the management of the Iowa department of corrections, or who introduces a controlled substance into the premises of such an institution, commits a class "D" felony.

(83 Acts, ch 96, § 121, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 724

WEAPONS

724.1 Offensive weapons. An offensive weapon is any device or instrumentality of the following types:

1. A machine gun. A machine gun is a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger.

2. A short-barreled rifle or short-barreled shotgun. A short-barreled rifle or short-barreled shotgun is a rifle with a barrel or barrels less than sixteen inches in length or a shotgun with a barrel or barrels less than eighteen inches in length, as measured from the face of the closed bolt or standing breech to the muzzle, or any rifle or shotgun with an overall length less than twenty-six inches.

3. Any weapon other than a shotgun or muzzle loading rifle, cannon, pistol, revolver or musket, which fires or can be made to fire a projectile by the explosion of a propellant charge, which has a barrel or tube with the bore of more than six-tenths of an inch in diameter, or the ammunition or projectile therefor, but not including antique weapons kept for display or lawful shooting.

4. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four ounces; any missile having an explosive charge of more than one-quarter ounce; or any device similar to any of these.

5. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections 1 to 4 of this section, or to assemble into such an offensive weapon, except magazines or other parts, ammunition, or ammunition components used in common with lawful sporting firearms or parts including but not limited to barrels suitable for refitting to sporting firearms.

6. Any bullet or projectile containing any explosive mixture or chemical compound capable of exploding or detonating prior to or upon impact.

7. Any mechanical device specifically constructed and designed so that when attached to a firearm silences, muffles or suppresses the sound when fired.

8. An offensive weapon or part or combination of parts therefor shall not include the following:

a. An antique firearm. An antique firearm is any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898 or any firearm which is a replica of such a firearm if such replica is not designed or redesigned for using conventional rimfire or

centerfire ammunition or which uses only rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

b. A collector's item. A collector's item is any firearm other than a machine gun that by reason of its date of manufacture, value, design, and other characteristics is not likely to be used as a weapon. The commissioner of public safety shall designate by rule firearms which he or she determines to be collector's items and shall revise or update the list of firearms at least annually.

c. Any device which is not designed or redesigned for use as a weapon; any device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; or any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition.

(83 Acts, ch 7, § 1) SF 155

NEW subsections 6 and 7 and former subsection 6 renumbered

724.2 Authority to possess offensive weapons. Any of the following is authorized to possess an offensive weapon when his or her duties or lawful activities require or permit such possession:

1. Any peace officer.
2. Any member of the armed forces of the United States or of the national guard.
3. Any person in the service of the United States.
4. A correctional officer, serving in an institution under the authority of the Iowa department of corrections.
5. Any person who under the laws of this state and the United States, is lawfully engaged in the business of supplying those authorized to possess such devices.
6. Any person, firm or corporation who under the laws of this state and the United States is lawfully engaged in the improvement, invention or manufacture of firearms.

7. Any museum or similar place which possesses, solely as relics, offensive weapons which are rendered permanently unfit for use.

(83 Acts, ch 96, § 122, 159) SF 464

Effective October 1, 1983

Subsection 4 amended

724.4 Carrying weapons. A person who goes armed with a dangerous weapon concealed on or about his or her person, or who, within the limits of any city, goes armed with a pistol or revolver, or any loaded firearm of any kind, whether concealed or not, or who knowingly carries or transports in a vehicle a pistol or revolver, commits an aggravated misdemeanor, provided that this section shall not apply to any of the following:

1. A person who goes armed with a dangerous weapon in his or her own dwelling or place of business, or on land owned or possessed by the person.
2. Any peace officer, when his or her duties require the person to carry such weapons.
3. Any member of the armed forces of the United States or of the national guard or person in the service of the United States, when the weapons are carried in connection with his or her duties as such.
4. A correctional officer, when the officer's duties require, serving under the authority of the Iowa department of corrections.
5. Any person who for any lawful purpose carries an unloaded pistol, revolver, or other dangerous weapon inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person.
6. Any person who for any lawful purpose carries or transports an unloaded pistol or revolver in any vehicle inside a closed and fastened container or securely wrapped package which is too large to be concealed on the person or inside a cargo or luggage

compartment where the pistol or revolver will not be readily accessible to any person riding in the vehicle or common carrier.

7. Any person while he or she is lawfully engaged in target practice on a range designed for that purpose or while actually engaged in lawful hunting.

8. Any person who has in his or her possession and who displays to any peace officer on demand a valid permit to carry weapons which has been issued to the person, and whose conduct is within the limits of that permit. No person shall be convicted of a violation of this section if the person produces at his or her trial a permit to carry weapons which was valid at the time of the alleged offense and which would have brought the person's conduct within this exception if the permit had been produced at the time of the alleged offense.

9. A law enforcement officer from another state when the officer's duties require the officer to carry the weapon and the officer is in this state for any of the following reasons:

- a. The extradition or other lawful removal of a prisoner from this state.
- b. Pursuit of a suspect in compliance with chapter 806.
- c. Activities in the capacity of a law enforcement officer with the knowledge and consent of the chief of police of the city or the sheriff of the county in which the activities occur or of the commissioner of public safety.

(83 Acts, ch 96, § 123, 159) SF 464

Effective October 1, 1983

Subsection 4 amended

(83 Acts, ch 7, § 2) SF 155

NEW subsection 9

724.6 Professional permit to carry weapons. A person may be issued a permit to carry weapons when the person's employment as a peace officer, correctional officer, security guard, private detective licensed under chapter 80A, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed. The permit shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder, and shall state the nature of the employment requiring the holder to go armed. A permit so issued, other than to a peace officer, shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in the employment, and while going to and from the place of the employment. A permit issued to a certified peace officer shall authorize that peace officer to go armed anywhere in the state at all times. Permits shall expire twelve months after the date when issued except that permits issued to peace officers and correctional officers are valid through the officer's period of employment unless otherwise canceled. When the employment is terminated, the holder of the permit shall surrender it to the issuing officer for cancellation.

(83 Acts, ch 7, § 3) SF 155

Amended

724.23 Records kept by commissioner. The commissioner of public safety shall maintain a permanent record of all valid permits to carry weapons and of current permit revocations.

(83 Acts, ch 7, § 4) SF 155

Amended

CHAPTER 725

VICE

725.7 Gaming and betting — penalty.

1. Except as permitted in chapters 99B and 99D, a person shall not do any of the following:

- a. Participate in a game for any sum of money or other property of any value.
- b. Make any bet.
- c. For a fee, directly or indirectly, give or accept anything of value to be wagered or to be transmitted or delivered for a wager to be placed within or without the state of Iowa.
- d. For a fee, deliver anything of value which has been received outside the enclosure of a racetrack licensed under chapter 99D to be placed as wagers in the pari-mutuel pool or other authorized systems of wagering.

e. Engage in bookmaking.

2. A person convicted of a violation of this section, upon conviction or plea of guilty, is guilty of:

a. For a first offense:

(1) Illegal gaming in the fourth degree if the amount involved does not exceed one hundred dollars. Illegal gaming in the fourth degree is a serious misdemeanor.

(2) Illegal gaming in the third degree if the amount involved exceeds one hundred dollars but does not exceed five hundred dollars. Illegal gaming in the third degree is an aggravated misdemeanor.

(3) Illegal gaming in the second degree if the amount involved exceeds five hundred dollars but does not exceed five thousand dollars. Illegal gaming in the second degree is a class "D" felony.

(4) Illegal gaming in the first degree if the amount involved exceeds five thousand dollars. Illegal gaming in the first degree is a class "C" felony.

b. For a second offense, the offense is one degree greater than what the offense would be if the offense had been a first offense.

c. For a third offense, the offense is two degrees greater than what the offense would be if the offense had been a first offense.

d. For a fourth and any subsequent offense, the offense is three degrees greater than what the offense would be if the offense had been a first offense.

The maximum sentence imposed for a violation of this section shall be the same as that of a class "C" felony under section 902.9.

(83 Acts, ch 187, § 34) SF 92

Struck and rewritten

725.13 "Bookmaking" defined. "*Bookmaking*" means advancing gambling activity by accepting bets upon the outcome of future contingent events as a business other than as permitted in chapters 99B and 99D. These events include, but are not limited to, the results of a trial or contest of skill, speed, power, or endurance of a person or beast or between persons, beasts, fowl, motor vehicles, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event.

(83 Acts, ch 187, § 35) SF 92

NEW section

725.14 Exception for state racing commission and pari-mutuel betting. This chapter does not prohibit the establishment and operation of a state racing commission and pari-mutuel betting on horse or dog races as provided in chapter 99D.

(83 Acts, ch 187, § 35) SF 92

NEW section

CHAPTER 726

PROTECTION OF THE FAMILY

726.4 Husband or wife may be witness. In all prosecutions under section 726.3, 726.5 or 726.6, the husband or wife is a competent witness for the state and may testify to relevant acts or communications between them.

(83 Acts, ch 37, § 6) SF 504

Amended

CHAPTER 728

OBSCENITY

728.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Obscene material*" is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for minors, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political or artistic value.

2. "*Material*" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

3. "*Disseminate*" means to transfer possession, with or without consideration.

4. "*Knowingly*" means being aware of the character of the matter.

5. "*Sadomasochistic abuse*" means the infliction of physical or mental pain upon a person or the condition of a person being fettered, bound or otherwise physically restrained.

6. "*Minor*" means any person under the age of eighteen.

7. "*Sex act*" means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

8. "*Prohibited sexual act*" means any of the following:

- a. A sex act as defined in section 702.17;
- b. An act of bestiality involving a child;
- c. Fondling or touching the pubes or genitals of a child;
- d. Fondling or touching the pubes or genitals of a person by a child;
- e. Sadomasochistic abuse of a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse;
- f. Sadomasochistic abuse of a person by a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse; or
- g. Nudity of a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the nude child.

9. "*Promote*" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these acts.

(83 Acts, ch 167, § 1) SF 496

NEW subsection 9

728.3 Admitting minors to premises where obscene material is exhibited.

1. A person who knowingly sells, gives, delivers, or provides a minor who is not a child with a pass or admits the minor to premises where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of a serious misdemeanor.

2. A person who knowingly sells, gives, delivers, or provides a child with a pass or admits a child to a premise where obscene material is exhibited is guilty of a public offense and upon conviction is guilty of an aggravated misdemeanor.

(83 Acts, ch 167, § 2) SF 496

Amended and NEW subsection 2 added

728.4 Sale of hard core pornography. A person who knowingly sells or offers for sale material depicting a sex act involving sadomasochistic abuse, excretory functions, or bestiality, which the average adult taking the material as a whole in applying contemporary community standards would find appeals to the prurient interest and is patently offensive; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value, upon conviction is guilty of an aggravated misdemeanor. Charges under this section may only be brought by a county attorney or by the attorney general.

(83 Acts, ch 167, § 3) SF 496

Amended

728.12 Sexual exploitation of children.

1. A person commits a class "C" felony when the person employs, uses, persuades, induces, entices, coerces, knowingly permits, or otherwise causes a child to engage in a prohibited sexual act or in the simulation of a prohibited sexual act if the person knows, has reason to know, or intends that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, or other print or visual medium.

2. A person commits a class "D" felony when the person knowingly promotes any material visually depicting a live performance of a child engaging in a prohibited sexual act or in the simulation of a prohibited sexual act.

However, this section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

(83 Acts, ch 167, § 4) SF 496

Amended and NEW subsection 2 added

728.13 Forfeiture. Everything of value that is furnished in exchange for material in violation of section 728.2, 728.4, or 728.12, subsection 2, all proceeds traceable to such an exchange, and all property, moneys, negotiable instruments, and securities used to facilitate a violation of those sections, and all assets traceable to the violation of those sections, is subject to forfeiture. However, property shall not be forfeited under this paragraph, to the extent of the interest of an owner, if the owner did not have knowledge of or did not consent to the violation of the chapter. The burden of proof is upon claimants of the property to rebut this presumption.

(83 Acts, ch 167, § 5) SF 496

Amended

CHAPTER 730
EMPLOYER-EMPLOYEE OFFENSES
 (Chapter title changed)

730.4 Polygraph examination prohibited.

1. For the purposes of this section "*polygraph*" means any mechanical or electrical instrument or device of any type used or allegedly used to examine, test or question individuals for the purpose of determining truthfulness.

2. An employer shall not require an applicant for employment or a current employee to take a polygraph examination as a condition of employment. An employer who requires a polygraph examination as a condition of employment is guilty of a simple misdemeanor.

3. Subsection 2 shall not apply to the state or a political subdivision of the state when in the process of selecting a candidate for employment as a peace officer.

(83 Acts, ch 86, § 1, 2, 3) HF 37

See Code editor's note at the end of this Supplement

NEW section

CHAPTER 801
CRIMINAL PROCEDURE SCOPE AND DEFINITIONS

801.4 General definitions. For the purposes of titles XXXV to XXXVII, unless the context otherwise requires:

1. "*Attorney general*" includes an authorized assistant of the attorney general.
2. "*Charge*" means a written statement presented to a court accusing a person of the commission of a public offense, including but not limited to a complaint, information, or indictment.
3. "*County attorney*" includes an authorized assistant of the county attorney.
4. "*Court*" means a place where justice is administered by a magistrate and includes such magistrate while acting in his or her judicial capacity.
5. "*Criminal proceeding*" is a proceeding in which a person is accused of a public offense.
6. "*Magistrate*" means all judges of the district court, including district associate judges and judicial magistrates throughout the state.
7. "*Peace officers*", sometimes designated "law enforcement officers", include:
 - a. Sheriffs and their regular deputies who are subject to mandated law enforcement training.
 - b. Marshals and policemen of cities.
 - c. Peace officer members of the department of public safety as defined in chapter 80.
 - d. Probation and parole agents acting pursuant to section 906.2.
 - e. Probation officers acting pursuant to section 602.7202, subsection 4.
 - f. Special security officers employed by board of regent's institutions as set forth in section 262.13.
 - g. Conservation officers as authorized by section 107.13.
 - h. Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section 321.477.
 - i. Such persons as may be otherwise so designated by law.
8. "*Prosecuting attorney*", sometimes designated "*prosecutor*", means any attorney who is authorized by law to appear on the behalf of the state in a criminal case, and includes the attorney general, an assistant attorney general, the county attorney, an assistant county attorney, or a special or substitute prosecutor whose appearance is approved by a court having jurisdiction to try the defendant for the offense with which he or she is charged. In the case of prosecution for a municipal ordinance violation, "prosecuting attorney" means a city attorney or an assistant city attorney.

9. The words “*accused person*”, “*accused*”, “*defendant*”, and similar words mean an individual, a public or private corporation, a partnership, or an unincorporated or voluntary association.

10. “*Indigent person*” means a person who is indigent as determined in accordance with section 815.9.

11. “*Complaint*” means a statement in writing, under oath or affirmation, made before a magistrate or district court clerk or clerk’s deputy as the case may be, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

12. “*Prosecution*” means the commencement, including the filing of a complaint, and continuance of a criminal proceeding, and pursuit of that proceeding to final judgment on behalf of the state or other political subdivision.

13. “*Indictable offense*” means an offense other than a simple misdemeanor.

(83 Acts, ch 186, § 10129, 10130, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Subsection 7, paragraph e amended

Subsection 10 struck and rewritten

CHAPTER 804

COMMENCEMENT OF ACTIONS—ARREST— DISPOSITIONS OF PRISONERS

804.1 Arrest by warrant — complaint and citation defined. A criminal proceeding may be commenced by the filing of a complaint before a magistrate. When such complaint is made, charging the commission of some designated public offense in which such magistrate has jurisdiction, and it appears from the complaint or from affidavits filed with it that there is probable cause to believe an offense has been committed and a designated person has committed it, the magistrate shall, except as otherwise provided, issue a warrant for the arrest of such person.

If the complaint charges a public offense, the magistrate may issue a citation instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated in the citation. The magistrate shall prescribe the manner of service for the citation at the time the citation is issued.

The citation may be served in the same manner as an original notice in a civil action.

If the person named in the citation is actually served as provided herein and willfully fails without good cause to appear as commanded by the citation, the person shall be guilty of a simple misdemeanor and the magistrate may issue a warrant of arrest for the offense originally charged.

If after issuing a citation the magistrate becomes satisfied that the person to whom such citation has been directed will not appear, the magistrate may at once issue a warrant of arrest without waiting for the date mentioned in the citation.

(83 Acts, ch 50, § 1, 7) SF 334

Effective May 6, 1983

Unnumbered paragraph 2 amended

804.21 Initial appearance before magistrate — arrest by warrant.

1. A person arrested in obedience to a warrant shall be taken without unnecessary delay before the nearest or most accessible magistrate. The officer shall at the same time deliver to the magistrate the warrant with the officer’s return endorsed on it and subscribed by the officer with the officer’s official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would otherwise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial

release guidelines or a bond schedule promulgated by the judicial council acting pursuant to Iowa rule of civil procedure 380. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of such release, or as soon as practicable on the next subsequent working day of the court, either (1) approve in writing of the release, or (2) disapprove of the release and issue a warrant for the person's arrest.

2. Where the offense is bailable, the magistrate shall fix bail giving due consideration to the bail endorsed on the warrant or other conditions stipulated on the warrant for the defendant's appearance in the court which issued the warrant; if such person is not released on bail, the magistrate must redeliver the warrant to the officer, and the officer shall retain custody of the arrested person until his or her removal to appear before the magistrate who issued the warrant.

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest or most accessible magistrate in the judicial district where the offense occurred, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and his or her witnesses must be subpoenaed to make new affidavits.

4. When the court is not in session, a person arrested and placed in jail may be released on the person's own recognizance with or without other conditions, by the verbal or written order of a judge or magistrate. The verbal order may be communicated by telephone. The judge or magistrate may issue such order of release only upon the request of an attorney or person believed by the judge or magistrate to be reliable.

5. a. The judicial council shall promulgate rules and bond levels to be contained within a bond schedule for the release of an arrested person.

b. The bond schedule shall not be used unless both the following conditions are met:

- (1) The person was arrested for a crime other than a forcible felony, and
- (2) The courts are not in session.

6. This section does not prevent the release of the arrested person pending initial appearance upon the furnishing of bail in the amount endorsed on the warrant. The initial appearance of a person so released shall be scheduled for a time not more than ten days after the date of release.

(83 Acts, ch 50, § 2, 3, 7) SF 334

Effective May 6, 1983

Subsection 1 amended
NEW subsections 5 and 6

(83 Acts, ch 51, § 5, 9) SF 503

Effective May 6, 1983

NEW subsection 4

804.22 Initial appearance before magistrate — arrest without warrant. When an arrest is made without a warrant, the person arrested shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the judicial district in which such arrest was made, and the grounds on which the arrest was made shall be stated to the magistrate by complaint, subscribed and sworn to by the complainant, or supported by the complainant's affirmation, and such magistrate shall proceed as follows:

1. If the magistrate believes from such complaint that the offense charged is triable in his or her court, the magistrate shall proceed with the case.

2. If the magistrate believes from such complaint that the offense charged is triable in another court, the magistrate shall by written order, commit the person arrested to a peace officer, to be taken before the appropriate magistrate in the district in which the offense is triable, and shall fix the amount of bail or other conditions of release which the person arrested may give for his or her appearance at the other court.

This section and the rules of criminal procedure do not affect the provisions of

chapter 805 authorizing the release of a person on citation or bail prior to initial appearance. The initial appearance of a person so released shall be scheduled for a time not more than ten days after the date of release.

(83 Acts, ch 50, § 4, 7) SF 334

Effective May 6, 1983

NEW unnumbered paragraph 2 (last paragraph)

CHAPTER 805

CITATIONS IN LIEU OF ARREST

805.1 When police citation may issue.

1. Except for an offense for which an accused would not be eligible for bail under section 811.1, a peace officer having grounds to make an arrest may issue a citation in lieu of making an arrest without a warrant or, if a warrantless arrest has been made, a citation may be issued in lieu of continued custody.

2. The citation procedure for traffic and other violations designated as scheduled violations is governed by sections 805.6 through 805.15.

3. a. State and local law enforcement agencies in the state of Iowa may cooperate to formulate uniform guidelines that will provide for the maximum possible use of citations in lieu of arrest and in lieu of continued custody for offenses for which citations are authorized. These guidelines shall be submitted to the Iowa law enforcement academy council for review. The Iowa law enforcement academy council shall then submit recommendations to the general assembly no later than January 1, 1984.

b. Factors to be considered by the agencies in formulating the guidelines relating to the issuance of citations for simple misdemeanors not governed by subsection 2, shall include but shall not be limited to all of the following:

(1) Whether a person refuses or fails to produce means for a satisfactory identification.

(2) Whether a person refuses to sign the citation.

(3) Whether detention appears reasonably necessary in order to halt a continuing offense or disturbance or to prevent harm to a person or persons.

(4) Whether a person appears to be under the influence of intoxicants or drugs and no one is available to take custody of the person and be responsible for the person's safety.

(5) Whether a person has insufficient ties to the jurisdiction to assure that the person will appear or it reasonably appears that there is a substantial likelihood that the person will refuse to appear in response to a citation.

(6) Whether a person has previously failed to appear in response to a citation or after release on pretrial release guidelines.

c. Additional factors to be considered in the formulation of guidelines relating to the issuance of citations for other offenses for which citations are authorized shall include but shall not be limited to all of the following concerning the person:

(1) Place and length of residence.

(2) Family relationships.

(3) References.

(4) Present and past employment.

(5) Criminal record.

(6) Nature and circumstances of the alleged offense.

(7) Other facts relevant to the likelihood of the person's response to a citation.

4. The issuance of a citation in lieu of arrest or in lieu of continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for the purpose of the speedy indictment requirements of R.Cr.P. section 27, subsection 2, paragraph "a", Ia. Ct. Rules, 2d ed.

5. Even if a citation is issued, the officer may take the cited person to an appropriate medical facility if it reasonably appears that the person needs care.

6. When a citation is not issued for an offense for which a citation is authorized, the arrested person may be released pending initial appearance on bail or on other conditions determined by pretrial release guidelines. When an arrested person furnishes bail, the officer then in charge of the place of detention shall secure it in safekeeping and shall see that it is forwarded to the office of the clerk of court during the clerk's next regular business day.

7. When the offense is one for which a citation is not authorized, the person does not qualify for release under pretrial release guidelines and the person cannot be released under a bond schedule, the person may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure.

(83 Acts, ch 51, § 6, 9) SF 503

Effective May 6, 1983

As amended by SF 334; struck and rewritten

805.6 Uniform citation and complaint.

1. a. The commissioner of public safety and the state conservation director, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the uniform citation and complaint in accordance with section 321.207 when applicable. The uniform citation and complaint shall contain spaces for the parties' names; the address of the alleged offender; the registration number of the offender's vehicle; the information required by section 805.2; a promise to appear as provided in section 805.3 and a place where the cited person may sign the promise to appear; a list of the scheduled fines prescribed by section 805.8, either separately or by group, and a statement that the court costs in scheduled offense cases, whether or not a court appearance is required or is demanded, are eight dollars; a brief explanation of sections 805.9 and 805.10; and a space where the defendant may sign an admission of the violation when permitted by section 805.9; and the uniform citation and complaint shall require that the defendant appear before a court at a specified time and place. The uniform citation and complaint also may contain a space for the imprint of a credit card, and may contain any other information which the commissioner of public safety and the state conservation director may determine.

b. The uniform citation and complaint shall contain the following statement with a space immediately below it for the signature of the person being charged:

"I hereby give my unsecured appearance bond in the amount of dollars and enter my written appearance. I agree that if I fail to appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of my appearance bond in satisfaction of the penalty plus court costs."

c. Unless the officer issuing the citation arrests the alleged offender, or permits admission or requires submission of bail as provided in section 805.9, subsection 3, the officer shall enter in the blank contained in the statement required by paragraph "b" one of the following amounts and shall require the person to sign the written appearance:

(1) If the offense is one to which a scheduled fine is applicable, an amount equal to one and one-half times the scheduled fine plus eight dollars costs.

(2) If the violation charged involved or resulted in an accident or injury to property and the total damages are less than two hundred fifty dollars, the amount of fifty dollars and eight dollars costs.

(3) If the violation is for any offense for which a court appearance is mandatory, the amount of one hundred dollars plus eight dollars costs.

d. The written appearance defined in paragraph "b" shall not be used for any offense other than a simple misdemeanor.

2. In addition to those violations which are required by subsection 1 to be charged upon a uniform citation and complaint, a violation of chapter 321 which is punishable as a simple, serious, or aggravated misdemeanor may be charged upon a uniform citation and complaint, whether or not the alleged offender is arrested by the officer making the charge.

3. Supplies of the uniform citation and complaint for municipal corporations and county agencies shall be paid for by the county. Supplies of the uniform citation and complaint for all other agencies shall be paid for out of the budget of the agency concerned.

4. The uniform citation and complaint shall contain a place for the verification of the officer issuing the complaint. The complaint may be verified before the chief officer of the law enforcement agency, or his or her designee, and the chief officer of each law enforcement agency of the state is authorized to designate specific individuals to administer oaths and certify verifications.

5. The commissioner of public safety and the state conservation director, acting jointly, shall design and publish a compendium of scheduled violations and scheduled fines, containing other information which they deem appropriate, and shall distribute copies to all courts and law enforcement officers and agencies of the state upon request. The cost of the publication shall be paid out of the budget of the department of public safety and out of the budget of the state conservation commission, each budget being liable for half of those costs. Copies shall be made available to individuals upon request, and a charge may be collected which does not exceed the cost of printing.

6. Nothing contained in this section shall be deemed to invalidate forms of uniform citation and complaint in existence prior to January 1, 1978. Existing forms may be used until supplies are exhausted.

(83 Acts, ch 204, § 8, 9) SF 549

Subsection 1, paragraph a, and paragraph c, subparagraphs (1) and (2) amended

(83 Acts, ch 123, § 201, 209) HF 628

Subsection 3 amended

805.8 Scheduled violations.

1. *Application.* Except as otherwise indicated, violations of sections of the Code specified in this section are scheduled violations, and the scheduled fine for each of those violations is as provided in this section, whether the violation is of state law or of county or city ordinance.

2. *Traffic violations.*

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars: However, violations charged by a city upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 111.38 or 321.362 the scheduled fine is ten dollars.

b. For registration violations under sections 321.32, 321.34, 321.37, 321.38, and 321.41 the scheduled fine is five dollars.

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections 321.317, 321.387, 321.388, 321.389, 321.390, 321.391, 321.392, 321.393, 321.422, 321.432, 321.436, 321.437, 321.438, subsection 1 or 3, 321.439, 321.440, 321.441, 321.442, 321.444, 321.445 and 321.447, the scheduled fine is ten dollars.

d. For improper equipment under section 321.438, subsection 2, the scheduled fine is fifteen dollars.

e. For improperly used or nonused or defective or improper equipment under sections 321.383, 321.384, 321.385, 321.386, 321.398, 321.402, 321.403, 321.404, 321.409, 321.419, 321.420, 321.423, 321.430, 321.433, 321.448, 321.449 and 321.450, the scheduled fine is twenty dollars.

f. For violations of a restricted license under sections 321.180, 321.193 and 321.194, the scheduled fine is twenty dollars.

g. For excessive speed violations when not more than five miles per hour in excess of the limit under sections 111.36, 321.236, subsections 5 and 11, 321.285, 321.286 and 321.287, the scheduled fine is ten dollars.

Excessive speed in conjunction with a violation of section 321.278 is not a scheduled violation, whatever the amount of excess speed.

For excessive speed violations when in excess of the limit under those sections by five or less miles per hour the fine is ten dollars, by more than five and not more than ten miles per hour the fine is twenty dollars, by more than ten and not more than fifteen miles per hour the fine is thirty dollars, by more than fifteen and not more than twenty miles per hour the fine is forty dollars, and by more than twenty miles per hour the fine is forty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

Excessive speed in whatever amount by a school bus is not a scheduled violation under any section listed in a subparagraph of this paragraph "f".

h. For operating, passing, turning and standing violations under sections 321.225, 321.236, subsections 3, 4, 9 and 12, 321.275, 321.295, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, 321.305, 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318, 321.323, 321.340, 321.344, 321.353, 321.354, 321.363, 321.364, 321.365, 321.366, 321.368, 321.382 and 321.395, the scheduled fine is fifteen dollars.

i. For violations involving failures to yield or to observe pedestrians and other vehicles under sections 321.257, subsections 1 and 4, 321.288, 321.298, 321.300, 321.307, 321.308, 321.313, 321.319, 321.320, 321.321, 321.329, 321.333, and 321.367, the scheduled fine is twenty dollars.

j. For violations by pedestrians and bicyclists under sections 321.236, subsection 10, 321.325, 321.326, 321.328, 321.331, 321.332, 321.397 and 321.434, the scheduled fine is ten dollars.

k. For violations by operators of school buses and emergency vehicles, and for violations by other motor vehicle operators when in vicinity, under sections 321.231, 321.324, 321.372 and 321.377, the scheduled fine is twenty-five dollars: However, excessive speed by a school bus in excess of ten miles over the limit is not a scheduled violation.

l. For violations of traffic signs and signals, and for failure to obey an officer under sections 321.229, 321.236, subsections 2 and 6, 321.256, 321.257, subsections 2 and 3, 321.258, 321.294, 321.304, subsection 3, 321.322, 321.341, 321.342, 321.343 and 321.415, the scheduled fine is twenty dollars.

m. For height, weight, length, width and load violations and towed vehicle violations under sections 321.309, 321.310, 321.381, 321.394, 321.437, 321.454, 321.455, 321.456, 321.457, 321.458, 321.461, and 321.462, the scheduled fine is twenty-five dollars. For weight violations under sections 321.459 and 321.466, the scheduled fine is twenty dollars for each two thousand pounds or fraction thereof of overweight.

n. For violation of display of identification required by section 326.22 and violation of trip permits as prescribed by section 326.23, the scheduled fine is twenty dollars.

o. For violation of registration provisions under section 321.17; violation of intrastate hauling on foreign registration under section 321.54; improper operation or failure to register under section 321.55; and display of registration or plates under section 321.98, the scheduled fine is twenty dollars.

For no evidence or improper evidence of intrastate authority carried or displayed under section 325.34; operation of vehicle by an unqualified driver under sections 325.34 and 327.22; and operating a vehicle in violation of maximum hours of service or failure to maintain and display evidence of hours of service under sections 325.34 and 327.22, the scheduled fine is twenty-five dollars.

For no or improper carrier identification markings under section 327B.1, the scheduled fine is fifteen dollars.

For no or improper evidence of interstate authority carried or displayed under section 327B.1, the scheduled fine is one hundred dollars.

p. For violations of sections 324.14, 324.52 or 324.74, subsections 2 and 6, the scheduled fine is ten dollars.

q. Violations of the schedule of axle and tandem axle and gross or group of axle weight violations in section 321.463 shall be scheduled violations subject to the provisions, procedures and exceptions contained in sections 805.6 to 805.11, irrespective of the amount of the fine under that schedule. Violations of the schedule of weight violations shall be chargeable, where the fine charged does not exceed one hundred dollars, only by uniform citation and complaint. Violations of the schedule of weight violations, where the fine charged exceeds one hundred dollars:

(1) Shall, when the violation is admitted and section 805.9 applies, be chargeable upon uniform citation and complaint, indictment, or county attorney's information,

(2) but otherwise, shall be chargeable only upon indictment or county attorney's information. In all cases of charges under the schedule of weight violations, the charge shall specify the amount of fine charged under the schedule. Where a defendant is convicted and the fine under the foregoing schedule of weight violations exceeds one hundred dollars, the conviction shall be of an indictable offense although section 805.9 is employed and whether the violation is charged upon uniform citation and complaint, indictment, or county attorney's information.

r. For failure to have a valid license or permit for operating a motor vehicle on the highways of this state, the scheduled fine is fifteen dollars.

s. For a violation of section 601E.6, regulating the use of handicapped parking spaces, the scheduled fine is fifteen dollars.

3. *Violations of navigation laws.*

a. For violations of registration, inspections, identification, and record provisions under sections 106.5, 106.35, 106.37, and for unused or improper or defective lights and warning devices under section 106.9, subsections 3, 4, 5, 9, and 10, the scheduled fine is ten dollars.

b. For violations of registration, identification, and record provisions under sections 106.4 and 106.10 and for unused or improper or defective equipment under section 106.9, subsections 2, 6, 7, 8, and 13, and section 106.11 and for operation violations under sections 106.26, 106.31 and 106.33, the scheduled fine is twenty dollars.

c. For operating violations under sections 106.12, 106.15, subsection 1, 106.24, and 106.34, the scheduled fine is twenty-five dollars. However, a violation of section 106.12, subsection 2, is not a scheduled violation.

d. For violations of use, location and storage of vessels, devices and structures under sections 106.27, 106.28 and 106.32, the scheduled fine is fifteen dollars.

e. For violations of all subdivision ordinances under section 106.17, subsection 2, except those relating to matters subject to regulation by authority of subsection 5 of section 106.31, the scheduled fine is the same as prescribed for similar violations of state law. For violations of subdivision ordinances for which there is no comparable state law the scheduled fine is ten dollars.

4. *Snowmobile violations.*

a. For registration and identification violations under sections 321G.3 and 321G.5, the scheduled fine is five dollars.

b. For operating violations under sections 321G.9, subsections 1, 2, 3, 4, 5 and 7, 321G.11, and 321G.13, subsections 4 and 9, the scheduled fine is twenty dollars.

c. For improper or defective equipment under section 321G.12, the scheduled fine is ten dollars.

d. For violations of section 321G.19, the scheduled fine is fifteen dollars.

5. *Fish and game law violations.*

a. For violations of section 110.1, the scheduled fine is twenty dollars: However, engaging without a license in any activity the license fee for which is greater than twenty dollars is not a scheduled violation.

b. For violations of sections 109.54, 109.80, first paragraph, 109.82, 109.91, 109.122, 109.123 and 110.19, the scheduled fine is twenty dollars.

c. For hunting or taking a raccoon during a closed season in violation of sections 109.38 and 109.39 or administrative orders or rules adopted under those sections, the scheduled fine is fifty dollars.

6. *Violations relating to the use and misuse of parks and preserves.*

a. For violations under sections 111.39, 111.45 and 111.50, the scheduled fine is ten dollars.

b. For violations under sections 111.40, 111.43, 111.46 and 111.49, the scheduled fine is fifteen dollars.

7. *Description of violations.* The descriptions of offenses used in this section are for convenience only and shall not be construed to define any offense or to include or exclude any offense other than those specifically included or excluded by reference to the Code. A reference to a section or subsection of the Code without further limitation includes every offense defined by that section or subsection.

8. *Energy emergency violations.* For violations of an executive order issued by the governor under the provisions of section 93.8, the scheduled fine is fifty dollars.

9. *Radar jamming devices.* For violation of section 321.232, the scheduled fine is ten dollars.

(82 Acts, ch 1062, § 33, 38) HF 808

Effective December 1, 1983

Subsection 2, paragraph b amended

(83 Acts, ch 125, § 6, 7, 8) SF 493

Subsection 2, paragraph c amended, NEW paragraph d and following paragraphs relettered, and paragraph o (formerly n) amended

(83 Acts, ch 58, § 2) SF 303

See Code editor's note at the end of this Supplement

Subsection 2, paragraph o (formerly n) amended

805.9 Admission of scheduled violations.

1. In cases of scheduled violations, the defendant, before the time specified in the citation and complaint for appearance before the court, may sign the admission of violation on the citation and complaint and deliver or mail the citation and complaint, together with the minimum fine for the violation, plus eight dollars costs, to a scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter 321, forward a copy of the citation and complaint and admission to the department of transportation as required by section 321.207. In this case the defendant is not required to appear before the court. The admission constitutes a conviction.

2. A defendant charged with a scheduled violation by information may obtain two copies of the information from the court and, before the time the defendant is required to appear before the court, deliver or mail the copies, together with the defendant's admission, fine, and eight dollars costs, to the scheduled violations office in the county. The procedure, fine, and costs are the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

3. When section 805.8 and this section are applicable but the officer does not deem it advisable to release the defendant and no court in the county is in session:

a. If the defendant wishes to admit the violation, the officer may release the

defendant upon observing the person mail the citation and complaint, admission, and minimum fine, together with eight dollars costs, to a traffic violations office in the county, in an envelope furnished by the officer. The admission constitutes a conviction and judgment in the amount of the scheduled fine plus eight dollars costs. The officer may allow the defendant to use a credit card pursuant to rules adopted under section 805.14 by the department of public safety or to mail a check in the proper amount in lieu of cash. If the check is not paid by the drawee for any reason, the defendant may be held in contempt of court. The officer shall advise the defendant of the penalty for nonpayment of the check.

b. If the defendant does not comply with paragraph "a" of this subsection, the officer may release the defendant upon observing the defendant mail to a court in the county the citation and complaint and one and one-half times the minimum fine together with eight dollars costs, or in lieu of one and one-half times the fine and the costs, a guaranteed arrest bond certificate as provided in section 321.1, subsection 70, as bail together with the following statement signed by the defendant:

"I agree that either (1) I will appear pursuant to this citation or (2) if I do not appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of one and one-half times the scheduled fine plus eight dollars costs."

c. If the defendant does not comply with paragraph "a" or "b", or when section 804.7 is applicable, the officer may arrest and confine the defendant if authorized by the latter section, and proceed according to chapter 804.

4. A defendant who admits a scheduled violation may appear before court. The procedure, costs, and fine, without suspension of the fine, after the hearing are the same as in the traffic violations office.

5. A defendant charged with a scheduled violation who does not fully comply with subsection 1, 2, 3, or 4 of this section before the time required to appear before the court must, at that time, appear before the court. If the defendant admits the violation, the procedure and fine, without suspension, after the hearing are the same before the court as before the traffic violations office with eight dollars court costs, without prejudice, when applicable, to proceedings under section 321.487.

6. The eight dollars in costs imposed by this section are the total costs collectible from a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from a defendant for the purposes specified in section 602.8105, subsection 1, paragraph "i", "j", or "t".

(83 Acts, ch 204, § 10) SF 549

Amended

(83 Acts, ch 186, § 10131, 10201) SF 495

See Code editor's note at the end of this Supplement

Subsection 6 amended

805.10 Required court appearance. Section 805.9 shall not apply to a scheduled violation in any of the following circumstances:

1. When the violation charged involved or resulted in an accident or injury to property, and the total damages are two hundred fifty dollars or more or in injury to person.

2. When the violation created an immediate threat to the safety of other persons or property because of highway conditions, visibility, traffic, repetition, or other circumstances.

In such cases, the defendant shall appear before the court and regular procedure shall apply. If an information is used the officer shall endorse thereon, "Court appearance required." If a citation and complaint is used, the officer shall strike out the space in which the defendant may admit the violation before a scheduled violations office and shall endorse thereon "Court appearance required" and the defendant shall appear before the court either in person or by attorney.

(83 Acts, ch 125, § 9) SF 493

Subsections 2 and 4 struck and former subsection 3 renumbered as 2

805.11 Other penalties. If the defendant is convicted of a scheduled violation, the penalty is the scheduled fine, without suspension of the fine prescribed in section 805.8 together with costs assessed and distributed as prescribed by section 602.8106, unless it appears from the evidence that the violation was of the type set forth in section 805.10, subsection 1 or 3, in which event the scheduled fine does not apply and the penalty shall be increased within the limits provided by law for the offense.

Upon the conviction of a defendant of a violation specified in section 805.8 or 805.10, fees shall not be imposed or collected for the purposes specified in section 602.8105, subsection 1, paragraph "i", "j", or "t".

(83 Acts, ch 186, § 10132, 10201) SF 495

Amended

805.12 Disposition of traffic fines and costs. Fines, forfeiture of bail, fees, and costs collected for all traffic violations, whether or not scheduled, and for all other scheduled violations shall be distributed in accordance with section 602.8106.

(83 Acts, ch 186, § 10133, 10201) SF 495

Amended

CHAPTER 809

DISPOSITION OF SEIZED PROPERTY

809.6 Other disposition.

1. *Forfeiture.* Unless otherwise specified by law, the magistrate shall order the immediate destruction of all forfeited property of an illegal nature or character. If the forfeited property is not of an illegal nature or character, the magistrate shall order all the property or the proceeds of its sale to be delivered to the treasurer of the county.

2. *No claimant.* If there is no claimant or if the right to possession cannot be determined, nonperishable property shall be held for a period of six months from the date of filing of the return, pending claim. After six months the magistrate or other officer having the property in custody shall, on payment of the necessary expenses incurred for its preservation, deliver it to the treasurer of the county.

3. *When proceeds deposited in general fund.* If the seized property is of the type described in section 204.505, subsection 1, paragraph "f", and the court determines that it is forfeited as provided in section 204.505, subsection 1, paragraph "f", or a claimant's right to possession is not established under section 809.5, subsection 2, the court shall order the property or the proceeds of its sale to be paid to the treasurer of state for deposit in the general fund.

4. *When destroyed.* If the seized property is of the type described in section 728.13 and the court determines that it is forfeited as provided in section 728.13 or a claimant's right to possession is not established under section 809.5, subsection 2, the court shall order the property or the proceeds of its sale to be paid to the treasurer of state for deposit in the general fund. However, if the property is material which is in violation of chapter 728 or material which would be in violation of chapter 728 if sold to a minor, the materials shall be destroyed.

(83 Acts, ch 123, § 202, 209) HF 628

Subsections 1 and 2 amended

CHAPTER 811

BAIL

811.2 Release of defendants — conditions of bail bond.

1. *Conditions for release of defendant.* All bailable defendants shall be ordered released from custody pending judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of the magistrate's discretion, that such a release will not reasonably assure the appearance of the defendant as required or that release will jeopardize the personal safety of another person or persons. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial and the safety of another person or persons, or, if no single condition gives that assurance, any combination of the following conditions:

a. Place the defendant in the custody of a designated person or organization agreeing to supervise the defendant.

b. Place restrictions on the travel, association or place of abode of the defendant during the period of release.

c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of court in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, such deposit to be returned to the defendant upon the performance of the appearances as required in section 811.6.

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that, except as provided in section 811.1, bail initially given shall remain valid until final disposition of the offense. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof and the defendant must provide the additional undertaking, written or cash, to secure his or her release.

e. Impose any other condition deemed reasonably necessary to assure appearance as required, or the safety of another person or persons including a condition requiring that the defendant return to custody after specified hours.

2. *Determination of conditions.* In determining which conditions of release will reasonably assure the defendant's appearance and the safety of another person or persons, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of the defendant's residence in the community, the defendant's record of convictions, and the defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

3. *Release at initial appearance.* This chapter does not preclude the release of an arrested person as authorized by section 804.21.

4. *Statement to all defendants.* When a defendant appears before a magistrate pursuant to R.Cr.P. 2 or 3, the defendant shall be informed of the defendant's right to have said conditions of release reviewed. If the defendant indicates he or she desires such a review and is indigent and unable to retain legal counsel, the magistrate shall appoint an attorney to represent the defendant for the purpose of such review. Unless the conditions of release are amended and the defendant is thereupon released, the magistrate shall set forth in writing the reasons for requiring conditions imposed. A defendant who is ordered released by a magistrate other than a district court judge or district associate judge on a condition which required that the defendant return to custody after specified hours, shall, upon application, be entitled to review by the magistrate who imposed the condition in the same manner as a defendant who remains in full-time custody. In the event that the magistrate who imposed conditions of release is not available, any other magistrate in the judicial district may review such conditions.

5. *Statement of conditions when defendant is released.* A magistrate authorizing the release of a defendant under this section shall issue a written order containing a statement of the conditions imposed if any, shall inform the defendant of the penalties applicable to violation of the conditions of his or her release and shall advise the defendant that a warrant for the defendant's arrest will be issued immediately upon such violation.

6. *Amendment of release conditions.* A magistrate ordering the release of the defendant on any conditions specified in this section may at any time amend his or her order to impose additional or different conditions of release, provided that, if the imposition of different or additional conditions results in the detention of the defendant as a result of the defendant's inability to meet such conditions, the provisions of subsection 3 of this section shall apply.

7. *Appeal from conditions of release.*

a. A defendant who is detained, or whose release on a condition requiring the defendant to return to custody after specified hours is continued, after review of the defendant's application pursuant to subsection 3 or 5 of this section, by a magistrate, other than a district judge or district associate judge having original jurisdiction of the offense with which the defendant is charged, may make application to a district judge or district associate judge having jurisdiction to amend the order. Said motion shall be promptly set for hearing and a record made thereof.

b. In any case in which a court denied a motion under paragraph "a" of this subsection to amend an order imposing conditions of release, or a defendant is detained after conditions of release have been imposed or amended upon such a motion, an appeal may be taken from the district court. The appeal shall be determined summarily, without briefs, on the record made. However, the defendant may elect to file briefs and may be heard in oral argument, in which case the prosecution shall have a right to respond as in an ordinary appeal from a criminal conviction. The appellate court may, on its own motion, order the parties to submit briefs and set the time in which such briefs shall be filed. Any order so appealed shall be affirmed if it is supported by the proceeding below. If the order is not so supported, the court may remand the case for a further hearing or may, with or without additional evidence, order the defendant released pursuant to subsection 1 of this section.

8. *Failure to appear — penalty.* Any person who, having been released pursuant to this section, willfully fails to appear before any court or magistrate as required shall, in addition to the forfeiture of any security given or pledged for the person's release, if he or she was released in connection with a charge which constitutes a felony, or while awaiting sentence or pending appeal after conviction of any public offense, be guilty of a class "D" felony. If the defendant was released before conviction or acquittal in connection with a charge which constitutes any public offense not a felony, the defendant shall be guilty of a serious misdemeanor. If the person was released for appearance as a material witness, the person shall be guilty of a simple misdemeanor. In addition, nothing herein shall limit the power of the court to punish for contempt.

(83 Acts, ch 19, § 1, 2, 3) SF 358

Subsection 1, unnumbered paragraph 1 and paragraph e amended

Subsection 2 amended

(83 Acts, ch 50, § 6, 7) SF 334

Effective May 6, 1983

NEW subsection 3 and following subsections renumbered

CHAPTER 812

CONFINEMENT OF MENTALLY ILL OR DANGEROUS PERSONS

812.4 Cessation of criminal prosecution. If, upon hearing conducted by the court, the accused is found to be incapacitated in the manner described in section 812.3, no further proceedings shall be taken under the complaint or indictment until the accused's capacity is restored, and, if his or her release will endanger the public peace or safety, the court must order him or her committed to the custody of the department of human services.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

812.5 Effect of restoration of mental capacity. If the accused is committed to the department of human services, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the prisoner will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that the accused can effectively assist in his or her defense, that department shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, must receive and hold the accused in custody until he or she is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning the accused, or any other, to be paid in the first instance by the county from which the accused is sent, but such county may recover the same from another county or municipal body bound to provide for or maintain the accused elsewhere, and the sheriff shall be allowed for his or her services the same fees as are allowed for conveying convicts to the penitentiary.

(83 Acts, ch 96, § 157, 159) SF 464

Amended

CHAPTER 813

IOWA RULES OF CRIMINAL PROCEDURE

813.4 Additions to and amendment of rules. The rules of criminal procedure may be amended, provisions deleted, and new rules added by the supreme court, subject to section 602.4202.

(83 Acts, ch 186, § 10134, 10201) SF 495

Amended

CHAPTER 814

APPEALS FROM THE DISTRICT COURT

814.9 Indigent's right to transcript on appeal. If a defendant in a criminal cause has perfected an appeal from a judgment and is determined by the court to be indigent, the court may order the transcript made at public expense. When an attorney of record is representing an indigent, the attorney shall apply to the district court for the transcript.

(83 Acts, ch 186, § 10135, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

Amended

814.10 Indigent's application for transcript in other cases. If a defendant in a criminal cause has been granted discretionary review from an action of the district court and the appellate court deems a transcript or portions thereof are necessary to proper review of the question or questions raised, the district court shall order the transcript made at public expense if a determination is made that the defendant is indigent.

(83 Acts, ch 186, § 10136, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
Amended

CHAPTER 815

COSTS OF PROCEEDINGS AND COMPENSATION OF GRAND JURY CLERKS, ATTORNEYS, WITNESSES AND OTHERS

815.9 Indigency determined — penalty.

1. For purposes of this chapter, section 68.8, section 222.22, chapter 232, chapter 814, and the rules of criminal procedure, a person is indigent if the person is determined to be unable to employ legal counsel without prejudicing the person's financial ability to provide economic necessities for the person or the person's dependent family.

2. A determination of indigence shall not be made except upon the basis of information contained in a detailed financial statement submitted by the person, or in an appropriate case by the person's parent, guardian, or custodian. The financial statement shall be in the form prescribed by the supreme court, and shall contain a full disclosure of all assets, liabilities, current income, dependents, and other information prescribed by the supreme court. The supreme court shall adopt rules under section 602.4202 prescribing the form and content of the financial statement, and the standards by which indigency shall be determined under subsection 1. If a person is granted legal assistance as an indigent, the financial statement shall be filed and permanently retained in the person's court file.

3. A person who knowingly submits a false financial statement for the purpose of obtaining legal assistance at public expense commits a fraudulent practice. As used in this subsection, "legal assistance" includes legal counsel, transcripts, witness fees and expenses, and any other goods or services required by law to be provided to an indigent person at public expense.

(83 Acts, ch 186, § 10137, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
NEW section

815.10 Appointment of counsel by court.

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, may appoint a public defender or any attorney who is admitted to the practice of law in this state to represent an indigent person at any state of the proceedings or on appeal of any action in which the indigent person is entitled to legal assistance at public expense. An appointment shall not be made unless the person is determined to be indigent under section 815.9.

2. If a court finds that a person desires legal assistance and is not indigent, but refuses to employ an attorney, the court shall appoint a public defender or another attorney to represent the person at public expense. If an attorney other than a public defender is appointed, the fee paid to the attorney shall be taxed as a court cost against the person.

3. An attorney other than a public defender who is appointed by the court under subsection 1 or 2 shall apply to the district court for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with section 815.7.

(83 Acts, ch 186, § 10138, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement
NEW section

815.11 Appropriations for indigent defense. Costs incurred under sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, 815.12, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the supreme court for those purposes.

(83 Acts, ch 186, § 10139, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

NEW section

815.12 Trial jury expenses. The clerk of the district court shall pay fees and mileage due petit jurors, and the costs of food, lodging, and transportation when provided for petit jurors.

(83 Acts, ch 186, § 10140, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

NEW section

815.13 Payment of prosecution costs. The county or city that prosecutes a criminal action shall pay the required fees and mileage to witnesses called on behalf of the prosecution, the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, the fees that are payable to the clerk of the district court for services rendered, and court costs taxed in connection with the trial of the action or appeals from the judgment. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed. Expenditures of a county under this section may be paid out of the court expense fund in lieu of the county general fund.

(83 Acts, ch 186, § 10141, 10201) SF 495

Transition provisions in article 11, chapter 602 of this Supplement

NEW section

CHAPTER 819

UNIFORM ACT TO SECURE WITNESSES FROM WITHOUT THE STATE

819.3 Fees and enforcement of order. A witness named in an order described in section 819.2 is entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings the witness is required to attend, and is also entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness.

If such witness fails without good cause to attend and testify as directed by such order the witness shall forfeit his or her right to receive mileage and per diem, and shall be guilty of contempt of court for which he or she may be punished accordingly.

(83 Acts, ch 123, § 203, 209) HF 628

Unnumbered paragraph 1 amended

CHAPTER 901

JUDGMENT AND SENTENCING PROCEDURES

901.2 Presentence investigation. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of any public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources. The court shall order a presentence investigation

when the offense is a class "B," class "C," or class "D" felony. The court may order a presentence investigation when the offense is an aggravated or serious misdemeanor.

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services.

The purpose of the report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing.

(83 Acts, ch 38, § 2) HF 578

NEW unnumbered paragraph 3

901.4 Presentence investigation report confidential. The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the court shall make all of the presentence investigation report available for inspection to the defendant's attorney, and to the attorney for the state. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report.

(83 Acts, ch 38, § 3) HF 578

Amended

(83 Acts, ch 96, § 124, 159, 160) SF 464

Iowa department of corrections effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

901.6 Judgment entered. If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced and none appears to the court upon the record, judgment shall be pronounced and entered. In every case in which judgment is entered, the court shall include in the judgment entry the number of the particular section of the Code and the name of the offense under which the defendant is sentenced and a statement of the days credited pursuant to section 903A.5 shall be incorporated into the sentence.

(83 Acts, ch 147, § 11, 14) SF 302

Applies only to inmates sentenced for offenses committed after July 1, 1983

Amended

(83 Acts, ch 38, § 4) HF 578

See Code editor's note to section 12.10 at the end of this Supplement

Amended

901.7 Commitment to custody. In imposing a sentence of confinement for more than one year, the court shall commit the defendant to the custody of the director of the Iowa department of corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of the commitment. The court shall make an order as appropriate for the temporary

custody of the defendant pending the defendant's transfer to the custody of the director. The court shall order the county where a person was convicted to pay the cost of temporarily confining the person and of transporting the person to the state institution where the person is to be confined in execution of the judgment.

(83 Acts, ch 96, § 125, 159) SF 464

Effective October 1, 1983

Amended

901.8 Consecutive sentences. If a person is sentenced for two or more separate offenses, the sentencing judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence. If a person is sentenced for escape under section 719.4 or for a crime committed while confined in a detention facility or penal institution, the sentencing judge shall order the sentence to begin at the expiration of any existing sentence. If the person is presently in the custody of the director of the Iowa department of corrections, the sentence shall be served at the facility or institution in which the person is already confined unless the person is transferred by the director. If consecutive sentences are specified in the order of commitment, the several terms shall be construed as one continuous term of imprisonment.

(83 Acts, ch 96, § 126, 159) SF 464

Effective October 1, 1983

Amended

901.9 Information for parole board. At the time of committing a defendant to the custody of the director of the Iowa department of corrections for incarceration, the trial judge and prosecuting attorney shall, and the defense attorney may, furnish the board of parole with a full statement of their recommendations relating to release or parole.

(83 Acts, ch 38, § 1) HF 578

NEW section

(83 Acts, ch 96, § 160) SF 464

Effective October 1, 1983

Amended

FELONIES

902.1 Class "A" felony. Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the Iowa department of corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence applies to a class "A" felony, and a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.

(83 Acts, ch 96, § 127, 159) SF 464

Effective October 1, 1983

Amended

902.3 Indeterminate sentence. When a judgment of conviction of a felony, other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section 707.3 or section 902.9 nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided.

(83 Acts, ch 96, § 128, 159) SF 464

Effective October 1, 1983

Amended

902.4 Reconsideration of felon's sentence. For a period of ninety days from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The court's final order in the proceeding shall be delivered to the defendant personally or by certified mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

(83 Acts, ch 96, § 129, 159) SF 464

Effective October 1, 1983

Amended

902.5 Place of confinement. The director of the Iowa department of corrections shall determine the appropriate place of confinement of any person committed to the director's custody, in any institution administered by the director, and may transfer the person from one institution to another during the person's period of confinement.

(83 Acts, ch 96, § 130, 159) SF 464

Effective October 1, 1983

Amended

902.6 Release. A person who has been committed to the custody of the director of the Iowa department of corrections shall remain in custody until released by the order of the board of parole, in accordance with the law governing paroles, or by order of the judge after reconsideration of a felon's sentence pursuant to section 902.4 or until the maximum term of the person's confinement, as fixed by law, has been completed.

(83 Acts, ch 96, § 131, 159) SF 464

Effective October 1, 1983

Amended

902.10 Application for involuntary hospitalization. For the purposes of chapter 229, the director of the Iowa department of corrections is an interested person and all applicable provisions of chapter 229, relating to involuntary hospitalization, apply to persons who have been committed to the custody of the Iowa department of corrections as a result of a conviction of a public offense.

(83 Acts, ch 96, § 132, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 903

MISDEMEANORS

903.1 Maximum sentence for misdemeanants.

1. When a person is convicted of a simple or serious misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

a. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

b. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

2. When a person is convicted of an aggravated misdemeanor, and a specific

penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

(83 Acts, ch 183, § 2, 3) HF 652

Retrospective to January 1, 1978

Amended; former subsections 1 and 2 struck and NEW subsection 1, paragraph b, and subsection 2 added

903.3 Work release. The court may direct that a prisoner sentenced to confinement in a county jail, alternate jail facility, or community correctional residential treatment facility, be released from custody during specified hours, as provided by sections 356.26 to 356.35.

(83 Acts, ch 39, § 1) HF 572

Amended

903.4 Providing place of confinement. All persons sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the Iowa department of corrections, in which case the provisions of section 901.8 apply. All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the Iowa department of corrections to be confined in a place to be designated by the director and the cost of the confinement shall be borne by the state. The director may contract with local governmental units for the use of detention or correctional facilities maintained by the units for the confinement of such persons.

(83 Acts, ch 96, § 133, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 903A

REDUCTION OF SENTENCES

NEW chapter

Section 903A.1 through 903A.5 and 903A.7 apply only to inmates sentenced for offenses committed after July 1, 1983; 83 Acts, ch 147, § 14

Iowa department of corrections effective October 1, 1983; 83 Acts, ch 96, § 159

903A.1 Conduct review. The director of the Iowa department of corrections shall appoint independent hearing officers whose duties shall include but not be limited to review, as provided in section 903A.3, of the conduct of inmates in institutions under the department.

(83 Acts, ch 147, § 2, 14, 15) SF 302

NEW section

903A.2 Good conduct time. Each inmate of an institution under the Iowa department of corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the department's institutions. In addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or in an inmate educational program approved by the director. Reduction

of sentence pursuant to this section may be subject to forfeiture pursuant to section 903A.3. Computation of good conduct time is subject to the following conditions:

1. Time served in jail or other facility, credited by the clerk of court prior to actual placement in a correctional institution, shall accrue for purposes of reduction of sentence under this section.

2. Time spent during escape shall not accrue for purposes of reduction of sentence under this section. An inmate who intentionally escapes may forfeit all good conduct time accrued and not forfeited prior to the escape.

3. Time between parole violation, which violation is determined by the board of parole at the final parole violation hearing, and incarceration shall not accrue for purposes of reduction of sentence under this section.

4. Good conduct time earned and not forfeited shall accrue to an inmate serving a life sentence. The good conduct time so accrued does not apply to reduce the life sentence, but shall be credited to the inmate on the date of commutation, if the life sentence is commuted to a term of years.

5. Except in life sentences, good conduct time shall be credited to the maximum sentence annually on the date of admission.

(83 Acts, ch 147, § 3, 14, 15) SF 302

NEW section

903A.3 Loss or forfeiture of good conduct time.

1. Upon finding that an inmate has violated an institutional rule, the independent hearing officer may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate. The independent hearing officer has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the hearing officer in the decision.

2. The orders of the hearing officer are subject to appeal to the superintendent or warden of the institution who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal. A decision of the superintendent or warden is subject to review by the director of the Iowa department of corrections who may either affirm, modify, remand for correction of procedural errors, or reverse the decision. However, sanctions shall not be increased on review.

3. The director of the Iowa department of corrections or the director's designee, may restore all or any portion of previously forfeited good conduct time for acts of heroism or for meritorious actions. The director shall establish by rule the requirements as to which activities may warrant the restoration of good conduct time and the amount of good conduct time to be restored.

4. The inmate disciplinary procedure, including but not limited to the method of awarding or forfeiting time pursuant to this chapter, is not a contested case subject to chapter 17A.

(83 Acts, ch 147, § 4, 14, 15) SF 302

NEW section

903A.4 Policies and procedures. The director of the Iowa department of corrections shall develop policy and procedural rules to implement sections 903A.1 through 903A.3. The rules may specify disciplinary offenses which may result in the loss of good conduct time, and the amount of good conduct time which may be lost as a result of each disciplinary offense. The director shall establish rules as to what constitutes "satisfactory participation" for purposes of additional reduction of sentence under section 903A.3, for employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or for participation in an educational program approved by the director, when such employment or programs are available.

(83 Acts, ch 147, § 5, 14, 15) SF 302

NEW section

903A.5 Time to be served — credit. An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 204.406, 204.413, 902.7, 902.8, or 906.5. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. However, if an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The clerk of the district court of the county from which the inmate was sentenced, shall certify to the warden the number of days so served.

An inmate shall not receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape, or for time served in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

(83 Acts, ch 147, § 6, 14, 15) SF 302

NEW section

903A.6 Good and honor time application. Sections 246.38, 246.39, 246.41, 246.42, 246.43, and 246.45, as the sections appear in the 1983 Code, remain in effect for inmates sentenced for offenses committed prior to July 1, 1983.

(83 Acts, ch 147, § 7, 13, 14) SF 302

Iowa correctional institution substituted for women's reformatory in § 246.38, 246.39 and 246.45; 83 Acts, ch 96, § 93, 94, 95, 159 (SF 464)

NEW section

903A.7 Separate sentences. When an inmate is committed under several convictions with consecutive sentences, they shall be construed as one continuous sentence in the granting or forfeiting of good conduct time.

(83 Acts, ch 147, § 8, 14) SF 302

NEW section

CHAPTER 905

COMMUNITY-BASED CORRECTIONAL PROGRAM

905.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Administrative agent*" means the county selected by the district board to perform accounting, budgeting, personnel, facilities management, insurance, payroll and other supportive services on the behalf of the district board, or the district department itself, if so designated by the district board.
2. "*Community-based correctional program*" means correctional programs and services designed to supervise and assist individuals who are charged with or have been convicted of a felony, an aggravated misdemeanor or a serious misdemeanor, or who are on probation or parole in lieu of or as a result of a sentence of incarceration imposed upon conviction of any of these offenses, or who are contracted to the district department for supervision and housing while on work release.
3. "*Director*" means the director of a judicial district department of correctional services.
4. "*District board*" means the board of directors of a judicial district department of correctional services.
5. "*District department*" means a judicial district department of correctional services, established as required by section 905.2.
6. "*Project*" means a locally functioning part of a community-based correctional

program, officed and operating in a physical location separate from the offices of the district department.

7. "Project advisory committee" means a committee of no more than seven persons which shall act in an advisory capacity to the director on matters pertaining to the planning, operation and other pertinent functions of each project in the judicial district. The members of the project advisory committee for each project shall be initially appointed by the director from among the general public. Not more than one half of the project advisory committee shall hold public office or public employment during membership on the committee. A person who holds public office and serves on the board of directors under section 905.3 shall not be a member of a project advisory committee under this section. The terms of the initial members of the project advisory committee shall be staggered to permit the terms of just over half of the members to expire in two years and those of the remaining members to expire in one year. Subsequent appointments to the project advisory committee shall be by vote of a majority of the whole project advisory committee for two-year terms.

(83 Acts, ch 96, § 134, 159) SF 464

Amendment to subsection 2 effective October 1, 1983

Subsection 2 amended

(83 Acts, ch 89, § 1) HF 279

See Code editor's note at the end of this Supplement

Subsection 7 amended

905.4 Duties of the board. The district board shall:

1. Adopt bylaws and rules for the conduct of its own business and for the government of the district department's community-based correctional program.
2. Employ a director having the qualifications required by section 905.6 to head the district department's community-based correctional program and, within a range established by the Iowa department of corrections, fix the compensation of and have control over the director and the district department's staff. For purposes of collective bargaining under chapter 20, employees of the district board who are not exempt from chapter 20 are employees of the state, and the employees of all of the district boards shall be included within one collective bargaining unit.
3. Designate one of the counties in the judicial district to serve as the district department's administrative agent to provide, in that capacity, all accounting, personnel, facilities management and supportive services needed by the district department, on terms mutually agreeable in regard to advancement of funds to the county for the added expense it incurs as a result of being so designated. However, the district board may designate the district department itself as the district department's administrative agent, if the district board determines that it would be more efficient and less costly than designating a county as the administrative agent.
4. File with the board of supervisors of each county in the district and with the Iowa department of corrections, within thirty days after the close of each fiscal year, a report covering the district board's proceedings and a statement of receipts and expenditures during the preceding fiscal year.
5. Arrange for, by contract or on such alternative basis as may be mutually acceptable, and equip suitable quarters at one or more sites in the district as may be necessary for the district department's community-based correctional program, provided that the board shall to the greatest extent feasible utilize existing facilities and shall keep capital expenditures for acquisition, renovation and repair of facilities to a minimum.
6. Have authority to accept property by gift, devise, bequest or otherwise and to sell or exchange any property so accepted and apply the proceeds thereof, or the property received in exchange therefor, to the purposes enumerated in subsection 5.
7. Recruit, promote, accept and use local financial support for the district department's community-based correctional program from private sources such as community service funds, business, industrial and private foundations, voluntary agencies and other lawful sources.

8. Accept and expend state and federal funds available directly to the district department for all or any part of the cost of its community-based correctional program.

9. Arrange, by contract or on an alternative basis mutually acceptable, and with approval of the director of the Iowa department of corrections or that director's designee for utilization of existing local treatment and service resources, including but not limited to employment, job training, general, special, or remedial education; psychiatric and marriage counseling; and alcohol and drug abuse treatment and counseling. It is the intent of this chapter that a district board shall approve the development and maintenance of such resources by its own staff only if the resources are otherwise unavailable to the district department within reasonable proximity to the community where these services are needed in connection with the community-based correctional program.

10. Establish a project advisory committee to act in an advisory capacity on matters pertaining to the planning, operation, and other pertinent functions of each project in the judicial district.

(83 Acts, ch 96, § 135, 159) SF 464

Effective October 1, 1983

Subsections 2, 4 and 9 amended

(83 Acts, ch 89, § 2) HF 279

NEW subsection 10

905.5 Functions of administrative agents.

1. The county designated under section 905.4, subsection 3, as administrative agent for each district department, or the district department itself, if designated as administrative agent by the district board, shall submit that district department's budget and supporting information to the Iowa department of corrections in accordance with the provisions of chapter 8. The state department shall incorporate the budgets of each of the district departments into its own budget request, to be processed as prescribed by the uniform budget, accounting and administrative procedures established by the state comptroller. Funds appropriated pursuant to the budget requests of the respective district departments shall be allocated on a quarterly basis, and the state comptroller shall authorize advancement of the funds so allocated to each district department's administrative agent, or to the district department itself if the district department acts as administrative agent, at the beginning of each fiscal quarter.

2. For all administrative purposes, all employees of each district department shall be considered employees of the district department.

3. A county designated as the administrative agent shall perform only those administrative functions assigned to it by the district board and shall not perform any activity unless directed to do so by the district board.

(83 Acts, ch 96, § 136, 159) SF 464

Effective October 1, 1983

Subsection 1 amended

905.6 Duties of director. The director employed by the district board under section 905.4, subsection 2, shall be qualified in the administration of correctional programs. The director shall:

1. Perform the duties and have the responsibilities delegated by the district board or specified by the Iowa department of corrections pursuant to this chapter.

2. Manage the district department's community-based correctional program, in accordance with the policies of the district board and the Iowa department of corrections.

3. Employ, with approval of the district board, and supervise the employees of the district department.

4. Prepare all budgets and fiscal documents, and certify for payment all expenses and payrolls lawfully incurred by the district department.

5. Act as secretary to the district board, prepare its agenda and record its proceedings.

6. Develop and submit to the district board a plan for the establishment, implementation, and operation of a community-based correctional program in that judicial district, which program conforms to the guidelines drawn up by the Iowa department of corrections under this chapter and which conform to rules, policies, and procedures pertaining to the supervision of parole and work release adopted by the director of the Iowa department of corrections concerning the community-based correctional program.

7. Negotiate and, upon approval by the district board, implement contracts or other arrangements for utilization of local treatment and service resources authorized by section 905.4, subsection 9.

(83 Acts, ch 96, § 137, 159) SF 464

Effective October 1, 1983

Subsections 1, 2 and 6 amended

905.7 Assistance by state department. The Iowa department of corrections shall provide assistance and support to the respective judicial districts to aid them in complying with this chapter, and shall promulgate rules pursuant to chapter 17A establishing guidelines in accordance with and in furtherance of the purposes of this chapter. The guidelines shall include, but need not be limited to, requirements that each district department:

1. Provide pretrial release, presentence investigations, probation services, parole services, work release services, and residential treatment centers throughout the district, as necessary.

2. Locate community-based correctional program services in or near municipalities providing a substantial number of treatment and service resources.

3. Follow practices and procedures which maximize the availability of federal funding for the district department's community-based correctional program.

4. Provide for gathering and evaluating performance data relative to the district department's community-based correctional program.

5. Maintain personnel and fiscal records on a uniform basis.

6. Provide a program to assist the court in placing defendants who as a condition of probation are sentenced to perform unpaid community service.

7. Provide for community participation in the planning and programming of the district department's community-based correctional program.

(83 Acts, ch 96, § 138, 139, 159) SF 464

Effective October 1, 1983

Unnumbered paragraph 1 and subsection 1 amended

(83 Acts, ch 89, § 3) HF 279

NEW subsection 7

905.8 State funds allocated. The Iowa department of corrections shall provide for the allocation among judicial districts in the state of state funds appropriated for the establishment, operation, support, and evaluation of community-based correctional programs and services. However, state funds shall not be allocated under this section to a judicial district unless the Iowa department of corrections has reviewed and approved that district department's community-based correctional program for compliance with the requirements of this chapter and the guidelines adopted under section 905.7.

(83 Acts, ch 96, § 140, 159) SF 464

Effective October 1, 1983

Amended

905.9 Report of review — sanction. Upon completion of a review of a district community-based correctional program, made under section 905.8, the Iowa department of corrections shall submit its findings to the district board in writing. If the Iowa department of corrections concludes that the district department's

community-based correctional program fails to meet any of the requirements of this chapter and of the guidelines adopted under section 905.7, it shall also request in writing a response to this finding from the district board. If a response is not received within sixty days after the date of that request, or if the response is unsatisfactory, the Iowa department of corrections may call a public hearing on the matter. If after the hearing, the Iowa department of corrections is not satisfied that the district's community-based correctional program will expeditiously be brought into compliance with the requirements of this chapter and of the guidelines adopted under section 905.7, it may assume responsibility for administration of the district's community-based correctional program on an interim basis.

(83 Acts, ch 96, § 141, 159) SF 464

Effective October 1, 1983

Amended

905.10 Postinstitutional programs and services. Persons participating in postinstitutional services, except those persons paroled and those persons contracted to the district department, remain under the jurisdiction of the Iowa department of corrections. The district department of correctional services shall maintain adequate personnel to provide postinstitutional residential services, parole services, and supervision of persons transferred into the state under the interstate compact for supervision of parolees and probationers.

(83 Acts, ch 96, § 142, 159) SF 464

Effective October 1, 1983

Amended

905.11 Biennial plan. The department of human services shall prepare a biennial plan relating to the management of the community-based corrections programs and services.

The plan shall include:

1. Goals, objectives, operations, and funding allocations for programs and projects to accomplish the requirements of this chapter and the orderly development of the community-based corrections programs and services.

2. The plans for coordination with the state agencies responsible for substance abuse services, mental health services, employment programs and other programs needed to improve the availability of services.

The plan shall be prepared and submitted by the department of human services to the council on human services. The council shall submit the plan to the governor and the general assembly in January of each odd-numbered year.

(83 Acts, ch 66, § 1) HF 247

NEW section

(83 Acts, ch 96, § 160) SF 464

Amended

CHAPTER 906

PAROLES

906.1 Definition of parole. Parole is the release of a person who has been committed to the custody of the director of the Iowa department of corrections by reason of the person's commission of a public offense, which release occurs prior to the expiration of the person's term, is subject to supervision by the district department of correctional services, and on conditions imposed by the district department.

(83 Acts, ch 96, § 143, 159) SF 464

Effective October 1, 1983

Amended

906.3 Authority of parole board. The board of parole shall adopt rules regarding a system of paroles from correctional institutions, and shall direct, control, and supervise the administration of the system of paroles. The board shall determine which of those persons who have been committed to the custody of the director of the Iowa department of corrections, by reason of their conviction of a public offense, shall be released on parole. The grant or denial of parole is not a contested case as defined in section 17A.2.

(83 Acts, ch 96, § 144, 159) SF 464

Effective October 1, 1983

Amended

906.5 Record reviewed — eligibility of prior forcible felon for parole — rules. Within one year after the commitment of a person other than a class "A" felon to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole. At such time, the board shall consider all pertinent information regarding this person, including the circumstances of the person's offense, any presentence report which may be available, the previous social history and criminal record of the person, the person's conduct, employment, and attitude in prison, and the reports of physical and mental examinations that have been made.

If the person who is under consideration for parole is serving a sentence for conviction of a felony and has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, parole shall be denied unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section shall not apply if the sentence being served is for a felony other than a forcible felony and the sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

A person while on parole is under the supervision of the district department of correctional services of the district designated by the board of parole. The department of corrections shall prescribe regulations for governing persons on parole. The board may adopt other rules not inconsistent with the rules of the department of corrections as it deems proper or necessary for the performance of its functions.

(83 Acts, ch 147, § 12, 14) SF 302

Applies retroactively to inmates who are serving on July 1, 1983, or will serve mandatory sentences pursuant to this section before July 1, 1983

Unnumbered paragraph 2 amended

(83 Acts, ch 96, § 145, 159) SF 464

Effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

906.10 Parole relief fund. There is established, from any unappropriated funds in the state treasury, a fund of twelve hundred fifty dollars which shall be known as the parole relief fund. The treasurer of state shall maintain the fund in that amount. The fund may be used for the relief of paroled prisoners who are in distress because of illness, loss of employment, or conditions creating personal need. The total amount advanced to a prisoner shall not exceed one hundred dollars. The prisoner, at the time of receiving an advancement, shall execute and deliver to the parole officer a written obligation to repay the advance during the period of the prisoner's parole. When paid, the amount shall be deposited with the treasurer of state and credited to the fund from which drawn. The advance shall be drawn on vouchers executed by the director of the Iowa department of corrections in favor of the needy person. Each voucher shall show that the advancement was ordered by the director of the judicial district department of correctional services, after approval by the director of the department of corrections.

(83 Acts, ch 96, § 146, 159) SF 464

Effective October 1, 1983

Amended

906.11 Assignment to parole officer. A person released on parole shall be assigned to a parole officer by the director of the judicial district department of correctional services. Both the person and the person's parole officer shall be furnished in writing with the conditions of parole including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe. The parole officer shall explain these conditions and regulations to the person, and supervise, assist, and counsel the person during the term of the person's parole.

(83 Acts, ch 96, § 147, 159) SF 464

Effective October 1, 1983

Amended

906.17 Alleged parole violators — reimbursement to counties for temporary confinement. The Iowa department of corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days confined by the average daily cost of confining a person in the county facility as negotiated by the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the Iowa department of corrections.

(83 Acts, ch 123, § 204, 209) HF 628

Amended

(83 Acts, ch 96, § 148, 159) SF 464

Iowa department of corrections effective October 1, 1983

See Code editor's note to section 12.10 at the end of this Supplement

Amended

CHAPTER 907

DEFERRED JUDGMENT, DEFERRED SENTENCE, SUSPENDED SENTENCE AND PROBATION

907.6 Conditions of probation — regulations. Probationers are subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, and any additional reasonable conditions which the court may impose to promote rehabilitation of the defendant or protection of the community. Conditions may include but are not limited to adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 907.13.

(83 Acts, ch 39, § 2) HF 572

Amended

CHAPTER 908

VIOLATIONS OF PAROLE OR PROBATION

908.5 Waiver of probable cause hearing. The alleged parole violator may waive the probable cause hearing, in which event the liaison officer shall proceed as upon a finding of probable cause. Before accepting a waiver of hearing, the liaison officer shall inform the alleged violator of the charge, of the alleged violator's right to a hearing to determine whether there is probable cause to believe that parole has been violated, and that if the hearing is waived, the alleged violator will be committed to the custody of the Iowa department of corrections without further proceedings, to await the determination of the parole board. The liaison officer shall make a verbatim record of the proceedings in which the hearing is waived.

(83 Acts, ch 96, § 149, 159) SF 464

Effective October 1, 1983

Amended

908.6 Disposition by liaison officer. If it appears from the evidence that there is no probable cause to believe that the arrested person has violated the conditions of parole, the liaison officer shall order the arrested person to be released from custody and continued on parole. If it appears that there is probable cause to believe that the arrested person has violated the conditions of parole, the liaison officer shall commit the arrested person to the custody of the Iowa department of corrections, and the procedure prescribed in section 901.7 shall apply to the commitment; or the liaison officer may recommend that the arrested person be admitted to bail as provided in section 908.2. The liaison officer shall make a summary of the testimony and other evidence considered and a statement of the facts relied on as a basis for the finding of probable cause or no probable cause, and shall without delay forward them together with all documents relating to the matter to the executive secretary of the parole board. If the alleged parole violator has waived the probable cause hearing, the verbatim record of that proceeding shall be forwarded in lieu of the summary of evidence and statement of facts.

(83 Acts, ch 96, § 150, 159) SF 464

Effective October 1, 1983

Amended

908.7 Action by parole board. Upon a finding of probable cause to believe that a parole violation has occurred, the board of parole shall proceed without unreasonable delay to hear the charge of parole violation. Upon receipt of the record prepared and forwarded by the liaison officer, the board shall fix a time and place for the hearing and shall notify in writing the alleged violator, the alleged violator's attorney of record, if any, and the Iowa department of corrections of the hearing and the claimed violation of parole. The alleged violator shall be given an opportunity to be heard by the board under rules the board shall adopt. The inquiry shall be limited to the following two matters: 1. Did the alleged parole violation actually occur? 2. If the violation did occur, should the violator's parole be revoked?

If the board determines that the parole should be revoked, it shall make an order revoking the parole. The board shall furnish the violator with a written statement of the facts relied upon to establish a violation and the reasons for revoking parole.

(83 Acts, ch 96, § 151, 159) SF 464

Effective October 1, 1983

Amended

908.8 Proceeding without arrest or probable cause. The board of parole may receive from a parole officer a charge or complaint of parole violation against any parolee and may proceed to a hearing on the charge in any case where the alleged violator has not been arrested or has been arrested and discharged by the liaison officer on a finding of no probable cause. The presence of the alleged violator at the hearing shall be secured by summons. A statement of the charge against the alleged violator shall accompany the summons, and the parole officer shall give the alleged violator assistance as needed to get to the place of the hearing. Travel expenses, if any, shall be paid by the board. If the alleged violator fails without good cause to appear as commanded by the summons, the failure shall be considered a violation of the parole, and the board may proceed to revoke parole. If the parole is revoked, the board shall issue a warrant for the person's arrest and return to the custody of the Iowa department of corrections. Upon the person's return to custody, the board, upon request, shall give the person an opportunity to present any matters in defense or mitigation of the conduct.

(83 Acts, ch 96, § 152, 159) SF 464

Effective October 1, 1983

Amended

908.9 Disposition of violator. If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. If the parole of a parole violator is not revoked, the board shall order the person's release subject to the terms of the person's parole with any modifications that the board determines proper.

(83 Acts, ch 96, § 153, 159) SF 464

Effective October 1, 1983

Amended

CHAPTER 910

VICTIM RESTITUTION

910.1 Definitions. As used in this chapter, unless the context otherwise requires:

1. "*Victim*" means any person who has suffered pecuniary damages as a result of the offender's criminal activities. However, for purposes of this chapter, an insurer is not a victim and does not have a right of subrogation.

2. "*Pecuniary damages*" means all damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, "pecuniary damages" includes damages for wrongful death.

3. "*Criminal activities*" means any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered and any other crime committed after July 1, 1982 which is admitted or not contested by the offender, whether or not prosecuted. However, "criminal activities" does not include simple misdemeanors under chapter 321.

4. "*Restitution*" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution shall also include the payment of court costs, court-appointed attorney's fees or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees or the expense of a public defender.

(83 Acts, ch 15, § 1, 3) SF 4

Amendments applicable only to persons sentenced on or after July 1, 1983

Subsection 4 amended

910.2 Restitution ordered by sentencing court. In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities and, to the extent that the offender is reasonably able to do so, to the county where conviction was rendered for court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution payments are paid to the county for court costs, court-appointed attorney's fees or for the expense of a public defender. When the offender is not reasonably able to pay all or a part of the court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for any governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment

of the offender to a public agency or private nonprofit agency to perform the required service.

(83 Acts, ch 15, § 2, 3) SF 4

Amendments applicable only to persons sentenced on or after July 1, 1983

Amended

910.4 Condition of probation — payment plan. When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court. The court may hold the offender in contempt, revoke probation, or may extend the period of probation in such circumstances. However, if the period of probation is extended it shall not be for more than the maximum period of probation for the offense committed as provided in section 907.7.

If an offender's probation is revoked, his or her assigned probation officer shall forward to the director of the division of adult corrections, information concerning the offender's restitution plan, restitution plan of payment, the restitution payment balance, and any other pertinent information concerning or affecting restitution by the offender.

When the offender is committed to a county jail, or to an alternate facility, the office or individual charged with supervision of the offender shall prepare a restitution plan of payment taking into consideration the offender's income, physical and mental health, age, education, employment and family circumstances. The office or individual charged with supervision of the offender shall review the plan of restitution ordered by the court, and shall submit a restitution plan of payment to the sentencing court. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a plan to meet the requirement for the community service. The court may approve or modify the plan of restitution and restitution plan of payment. When there is a significant change in the offender's income or circumstances, the office or individual which has supervision of the plan of payment shall submit a modified restitution plan of payment to the court. When there is a transfer of supervision from one office or individual charged with supervision of the offender to another, the sending office or individual shall forward to the receiving office or individual all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required. When the offender's circumstances and income have significantly changed, the receiving office or individual shall submit a new plan of payment to the sentencing court for approval or modification based on the considerations enumerated in this section.

(83 Acts, ch 56, § 1) SF 359

Unnumbered paragraph 3 amended

910.5 Condition of work release or parole.

1. When an offender is committed to the custody of the director of the division of adult corrections pursuant to a sentence of confinement, the sentencing court shall forward to the director, a copy of the offender's restitution plan, present restitution payment plan if any, and other pertinent information concerning or affecting restitution by the offender. However, if the offender is committed to the custody of the director after revocation of probation, this information shall be forwarded by the offender's probation officer.

An offender committed to a penal or correctional facility of the state, shall make restitution while placed in that facility. Upon commitment to the custody of the director of the division of adult corrections, the director or the director's designee shall prepare a restitution plan of payment or modify any existing plan of payment. The new or modified plan of payment shall reflect the offender's present circum-

stances concerning the offender's income, physical and mental health, education, employment, and family circumstances. The director or the director's designee may modify the plan of payment at any time to reflect the offender's present circumstances.

2. If an offender is to be placed on work release from an institution under the control of the director of the division of adult corrections, restitution shall be a condition of work release. The chief of the bureau of community correctional services of the division of adult corrections, shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. The bureau chief may modify the plan of payment at any time to reflect the offender's present circumstances. Failure of the offender to comply with the restitution plan of payment, including the community service requirement, if any, shall constitute a violation of a condition of work release and the work release privilege may be revoked.

3. If an offender is to be placed on work release from a facility under control of a county sheriff or the judicial district department of correctional services, restitution shall be a condition of work release. The office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances. Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, constitutes a violation of a condition of work release. The office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances.

4. If an offender is to be placed on parole, restitution shall be a condition of parole. The district department of correctional services to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole. The parole officer may modify the plan of payment any time to reflect the offender's present circumstances. A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the director of the district department of correctional services.

5. The director of the division of adult corrections shall promulgate rules pursuant to chapter 17A concerning the policies and procedures to be used in preparing and implementing restitution plans of payment for offenders who are committed to an institution under the control of the director of the division of adult corrections, for offenders who are to be released on work release from institutions under the control of the director of the division of adult corrections, for offenders who are placed on probation, and for offenders who are released on parole.

(83 Acts, ch 96, § 154, 159) SF 464

Effective October 1, 1983

Subsections 3 and 4 amended

(83 Acts, ch 56, § 2) SF 359

See Code editor's note to section 12.10 at the end of this Supplement

Subsection 3 amended

910.6 Payment plan — copy to victims. An office or individual preparing a restitution plan of payment or modified restitution plan of payment, when it is approved by the court if approval is required under section 910.4, or when the plan

is completed if court approval under section 910.4 is not required, shall forward a copy to the clerk of court in the county in which the offender was sentenced. The clerk of court shall forward a copy of the plan of payment or modified plan of payment to the victim or victims.

(83 Acts, ch 56, § 3) SF 359

Amended

910.7 Petition for hearing. At any time during the period of probation, parole or incarceration, the offender or the office or individual who prepared the offender's restitution plan, may petition the court and the court shall grant a hearing on any matter related to the plan of restitution or restitution plan of payment. The court at any time prior to the expiration of the offender's sentence, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

(83 Acts, ch 56, § 4) SF 359

Amended

910.9 Collection of payments — payment by clerk of court. An offender making restitution pursuant to a restitution plan of payment shall make the payment monthly to the clerk of court of the county from which the offender was sentenced, unless the restitution plan of payment provides otherwise.

The clerk of court shall maintain a record of all receipts and disbursements of restitution payments and shall disburse all moneys received to the victims designated in the plan of restitution. If there is more than one victim, disbursements to the victims shall be on the basis of the victim's percentage of the total owed by the offender to all victims.

Court costs, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender, shall notify all victims that full restitution has been made, and a copy of the notice shall be sent to the sentencing court. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

(83 Acts, ch 56, § 5) SF 359

Unnumbered paragraph 3 amended

CHAPTER 911

SURCHARGE ADDED TO CRIMINAL PENALTIES

911.3 Disposition of surcharge. When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ninety percent of the surcharge collected to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit the money in the general fund of the state. The clerk of the district court shall transmit ten percent of the surcharge to the county treasurer or shall remit ten percent of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

(83 Acts, ch 123, § 205, 209) HF 628

Amended

CHAPTER 912

CRIME VICTIM REPARATION PROGRAM

912.3 Duties of commissioner. The commissioner shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim reparation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.

2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.

3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim reparation program, including the procedures for obtaining reparation under the program.

4. Request from the department of human services, the Iowa department of job service, the industrial commissioner, the attorney general, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim reparation program.

5. Require medical examinations of victims as needed. The victim shall be responsible for the cost of the medical examination if reparation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim reparation program if reparation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.

6. Render to the governor and the general assembly by January 1, 1984, a written report of activities undertaken for the crime victim reparation program.

(83 Acts, ch 96, § 157, 159) SF 464

Subsection 4 amended

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CODE EDITOR'S NOTES

Code Section

- 12.10** It appears that the amendments do not conflict, so they were harmonized and both are shown as authorized in section 4.11, Code 1983. In other sections which refer to this note, it has been assumed that a strike or repeal prevails over an amendment to the same material and does not create an irreconcilable conflict; and that the substitution of correct departmental titles as authorized by law does not create a conflict.
- 19A.3** 83 Acts, chapter 126, section 24 (SF 356) purported to amend unnumbered paragraph 5 of section 19A.3. However, it appears that unnumbered paragraph 4 is the correct reference so the amendment has been applied to that paragraph.
- 32.2** 83 Acts, chapter 186, section 10204 (SF 495) states that if both SF 495 and 83 Acts, chapter 185 (HF 562) are enacted, and if HF 562 deposits in the general fund of the state all amounts that would be received from a clerk of the district court under what is now section 602.8106, subsection 3, certain amendments and repeals in HF 562 shall prevail and what is now section 602.8107 and certain other amendments in HF 562 and SF 495 shall be void. Both were enacted as described, but the relevant sections in HF 562 are not effective until July 1, 1984. It appears that the intent of the general assembly was to change the method of distributing certain moneys on that date, and that the amendments which are to prevail and the section and other amendments which are to be void should prevail and be void on July 1, 1984. Therefore, section 602.8107 and the relevant amendments are printed under the assumption that they are in effect until July 1, 1984. They are followed by the prevailing provisions of HF 562 which are assumed to be effective on that date. However, in the case of section 127.20 nothing was enacted to prevail on July 1, 1984, and in the case of section 127.21 it may be impossible for an amendment to prevail over a repeal, so corrective legislation may be required.
- 80.25A** As enacted, this section had an "a" in the phrase "division of (a) criminal investigation." As it appeared to be a clerical error, it was omitted under the authority of section 14.13, Code 1983.
- 97B.49(10)** Although 83 Acts, chapter 96, section 157 (SF 464) directed that the references to "department of social services" in this subsection be changed to "department of human services", it appears that the change should have been to the new "Iowa department of corrections" since correctional officers are the subject matter. Therefore, in accordance with the directive in SF 464, section 160, to make "other corrective changes consistent with the intent of this Act", the references have been changed to the "Iowa department of corrections".
- 125.76** The amendments to this section conflict. Since 83 Acts, chapter 101, section 15 (SF 136) corrected a section number reference to make it consistent with the Code 1983, and 83 Acts, chapter 186, section 10044 (SF 495), which is the court reorganization Act, was passed later and further changed the section number reference after repealing the number referred to in SF 136, the amendment in SF 495 appears to prevail and is printed in accordance with sections 4.8 and 4.11, Code 1983.
- 144.37** The amendments to unnumbered paragraph 2 conflict in some respects. In what was the third sentence of the paragraph, 83 Acts, chapter 101, section 23 (SF 136), a corrective Act, changed the word "divorce" to "dissolution", while 83 Acts, chapter 186, section 10049 (SF 495), the court reorganization Act, struck the entire sentence and added a few other words which do not appear to conflict. Since SF 495 was passed later it appears to prevail under sections 4.8 and 4.11, Code 1983 and the paragraph is printed here substantially as passed in SF 495.
- 144.46** The amendments conflict in some respects. 83 Acts, chapter 123, section 68 (HF 628), the county finance Act, struck the words "general fund" and inserted the word "treasury" to preserve internal consistency. However, 83 Acts, chapter 186, section 10050 (SF 495), the court reorganization Act, which was passed later, struck the entire phrase in which those words appeared. SF 495 appears to prevail under sections 4.8 and 4.11, Code 1983, so the section has been printed that way.

CODE EDITOR'S NOTES

Code Section

- 151.11** In 83 Acts, chapter 83, section 7 (SF 474) the reference to chapter 17A included the words "Code 1983" which have been omitted in printing under the authority of section 14.14, Code 1983.
- 217A.77** 83 Acts, ch 51, section 2 (SF 503) enacted this section as a new section in chapter 218 of the Code. However, it appears to be more appropriately placed in the new chapter 217A.
- 217A.78** 83 Acts, chapter 51, section 3 (SF 503) amended section 246.18 with the apparent intent of making it applicable to all institutions under the new Iowa department of corrections so it was transferred here as part of new chapter 217A.
- 217A.79** 83 Acts, chapter 51, section 4 (SF 503) amended section 246.25 with the apparent intent of making it applicable to all institutions under the new Iowa department of corrections so it was transferred here as part of new chapter 217A.
- 232.71(4)** The corrective amendment in subsection 4 which changes the department's name, although enacted to be in effect October 1, 1983, has been printed as in effect July 1, 1983, under the authority given to the Code editor in several Acts to make corrective changes consistent with the intent of 83 Acts, chapter 96 (SF 464). (See Code editor's preface to this Supplement.)
- 247.31** The amendments conflict. 83 Acts, chapter 96, section 101 (SF 464) made corrective amendments which were to be effective October 1, 1983. However, 83 Acts, chapter 186, section 10061 (SF 495), which was passed later, struck the language where the corrections were made and made substantive changes which eliminated the need for the corrections. It appears that SF 495 should prevail under sections 4.8 and 4.11, Code 1983, and the section has been so printed here.
- 321.27** 82 Acts, chapter 1062, section 35 referred to "section 33 of this Act," but it appears that section 34 was intended. Section 34 is now section 321.26, so that number has been inserted in unnumbered paragraph 1 of section 321.27.
- 321.166** 82 Acts, chapter 1062, section 36 referred to "section 27 of this Act" and "section 28 of this Act" in establishing effective dates, but it appears that sections 28 and 29 were intended. The reference to section 27 (28) is moot due to the amendment in 83 Acts, chapter 24, section 7 (SF 453). The reference to section 28 (29) is covered in the footnote to this section.
- 346A.2** This section is printed as amended by 83 Acts, chapter 123, section 157 (HF 628) which struck the sentence amended by 83 Acts, chapter 12, section 2 (SF 15). However, as the footnotes indicate, SF 15 was effective from April 12, 1983, for the fiscal year beginning July 1, 1983, and HF 628 is effective for the fiscal year beginning July 1, 1984.
- 428A.8** The amendments to unnumbered paragraph 2 technically conflict but there is little difference in their meaning. 83 Acts, chapter 135, section 4 (SF 354) was passed later so it is printed here in accordance with sections 4.8 and 4.11, Code 1983.
- 455B.278(1)** The amendments can be harmonized in some respects but conflict in their handling of application fees. 83 Acts, chapter 136, section 3 (SF 355), which was passed later (although both Acts were signed by the governor on the same day) struck the language relating to application fees which had been amended by 83 Acts, chapter 137, section 21 (SF 368). SF 355 also added a new subsection to section 455B.105 which provided specific details regarding application fees. Therefore, the subsection as amended by SF 355 has been printed, along with parts of the amendment by SF 368 which do not appear to conflict. This combination appears to comply with sections 4.7, 4.8, and 4.11, Code 1983.

CODE EDITOR'S NOTES

Code Section

- 467A.71** 83 Acts, chapter 207, section 53 (SF 548) as enacted omitted the letter "s" on the word "practices" in the title "conservation practices revolving loan fund" in some instances. It was added editorially for consistency.
- 537.1301** Although new subsection 43 was assigned to section 537.1302 in 83 Acts, chapter 124, section 25 (SF 223), it appears that section 537.1301, which is the "definitions" section, is a more correct placement.
- 542.6** Although 83 Acts, chapter 18, section 2 (SF 172) does not state that it applies to the two printed versions of section 542.6, it appears that it was the intent to strike subsections 3 and 4 in both printed versions of section 542.6, so it is shown that way.
- 602.1212** Although 83 Acts, chapter 127, section 43 (HF 312) purported to add this section to chapter 602, Code 1983, which was subsequently repealed by 83 Acts, chapter 186, section 10203 (SF 495), it appears that there was no intent to repeal this new section so it has been added to the new chapter 602 enacted by SF 495. The supreme court is implementing this section.
- 631.2(2)** The amendments have been harmonized to the extent possible. They conflict in the section number reference, and since 83 Acts, chapter 186, section 10116 (SF 495) was passed later and contains the correct reference, it appears to prevail in this respect in accordance with sections 4.8 and 4.11, Code 1983.
- 631.6** Although 83 Acts, chapter 63, section 3 (HF 315) purported to amend unnumbered paragraph 6, it appears that unnumbered paragraph 2 (the last paragraph) is the correct reference. The amendments to this section have been harmonized. The latest amendment to unnumbered paragraph 2 was 83 Acts, chapter 186, section 10118 (SF 495), the court reorganization Act, which provided that revenue from small claims court which would otherwise have gone to the counties, be deposited in the court revenue distribution account. The supreme court, under the authority granted it in SF 495, section 10301 to interpret the application of provisions of SF 495, has determined that the amendment to subsection 1 of section 631.6 made by 83 Acts, chapter 63, section 2 (HF 315) is compatible with SF 495 except that the portion of the docket fee it allocated to the county should go to the new court revenue distribution account. This made the amendment in HF 315 to unnumbered paragraph 2 of section 631.6, which excepted docket fees from its provisions, irreconcilable. The amendment to unnumbered paragraph 2 in 83 Acts, chapter 101, section 125 (SF 136) was enacted earlier and was corrective only, so a portion of it was superseded by SF 495 and a portion could be used. The section has been printed in a manner compatible with sections 4.8 and 4.11, Code 1983, and the supreme court's interpretation, but corrective legislation may be needed to confirm the final result.
- 730.4** Although 83 Acts, chapter 86, sections 1 and 3 (HF 37) were enacted as if they were temporary sections, it appears that they should be codified along with section 2, so the three sections are printed as three subsections of new section 730.4.
- 805.9(6)** The amendments to subsection 6 conflict. 83 Acts, chapter 204, section 10 (SF 549) was passed later (although both were signed by the governor on the same day) and increased the fees, so it appears to prevail under sections 4.8 and 4.11, Code 1983. However, since the section number reference in that Act was changed and corrected in 83 Acts, chapter 186, section 10131 (SF 495), the Acts have been harmonized by including that reference from SF 495.
- 905.1(7)** 83 Acts, chapter 89, section 1 (HF 279) referred to "chapter 905.3". It appears that "section 905.3" was intended, and it has been printed that way.

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