

# **IOWA BILL DRAFTING GUIDE**

# **AND**

# **STYLE MANUAL**

**For use in the preparation of legislative bills, resolutions, and amendments**

*(Partially updated August 2012)*

Prepared and issued by the Iowa Legislative Services Agency, in consultation with the Code Editor, as proposed rules and instructions, for adoption by the Legislative Council, for the drafting and preparation of legislative bills and resolutions pursuant to Iowa Code sections 2.42(10) and 3.2

## **PREFACE**

This bill drafting guide is issued by the Legislative Services Agency. It is intended to serve as a guide for the proper preparation of bills, resolutions, and amendments to be introduced and considered by the Iowa General Assembly. Bills, resolutions, and amendments prepared pursuant to the guidelines contained in this document will, nevertheless, be reviewed by the Legislative Services Agency and the Legal Counsel of the house where the bills, resolutions, and amendments are intended to be introduced. This guide has been developed for use by bill drafters of the Legislative Services Agency, the two houses of the General Assembly, and other persons who prepare legislation for consideration by the General Assembly. The guide, when properly followed, should enable a person to place in proper form any bill, resolution, or amendment for introduction or filing in the General Assembly. However, it should be kept in mind that the house of introduction is the final judge as to the adequacy of the preparation of a bill, resolution, or amendment and a designated officer of the house of introduction will make a determination as to the adequacy of a bill, resolution, or amendment before it is allowed to be introduced or filed.

This bill drafting guide will also serve as a guide for persons attempting to read and understand a bill, resolution, or amendment. The use of uniform guidelines are necessary to accomplish this objective.

The bill drafting guide was also used as the basis for developing computer programs for the drafting and redrafting of bills, resolutions, and amendments, and for the codification of new law. Because the computer programs have been developed on the basis of the bill drafting guide, it is essential that the form and style recommended in the bill drafting guide be followed very closely.

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## **DIVISION A -- AUTHORITY TO ESTABLISH FORM AND STYLE**

The authority for the formulation of rules as to form and style for the development of bills and resolutions is found in the Constitution of the State of Iowa, the Code of Iowa, and the rules governing the House of Representatives and Senate. That authority is as follows:

### **1. IOWA CONSTITUTIONAL PROVISIONS.**

Article III, Section 9. Authority of the houses. Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the General Assembly of a free and independent State.

Article III, Section 15. Bills. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the Speaker and President of their respective houses.

Article III, Section 29. Acts--one subject--expressed in title. Every Act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an Act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Article VII, Section 7. Tax imposed distinctly stated. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

## 2. STATUTORY PROVISIONS.

### 2.42. Powers and duties of council.

The powers and duties of the (legislative) council shall include, but not be limited to, the following:

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

### 2B.13 Editorial powers and duties.

1. The Iowa Code editor in preparing the copy for an edition of the Iowa Code or a Code Supplement, and the administrative code editor in preparing the copy for an edition of the Iowa administrative code or bulletin may:

a. Correct misspelled words and grammatical and clerical errors including punctuation but without changing the meaning.

b. Correct internal references to sections which are cited erroneously or have been repealed, and names of agencies, officers, or other entities which have been changed, when there appears to be no doubt as to the proper methods of making the corrections. The Code editor shall maintain a record of the corrections made under this paragraph. The record shall be available to the public.

c. Transfer, divide, or combine sections or parts of sections and add or amend headnotes to sections and subsections. Pursuant to section 3.3, the headnotes are not part of the law.

2. The Iowa Code editor may prepare and publish comments deemed necessary for a proper explanation of the manner of printing a section or chapter of the Iowa Code.

3. The Iowa Code editor, in preparing the copy for an edition of the Iowa Code or a Code Supplement, and the administrative code editor in preparing the copy for an edition of the Iowa administrative code, shall edit the copy in order that words which designate one gender are changed to reflect both genders when the provisions of law apply to persons of both genders.

4. The Iowa Code editor shall seek direction from the senate committee on judiciary and the house committee on judiciary when making Iowa Code or Code Supplement changes, and the administrative code editor shall seek direction from the administrative rules review committee and the administrative rules coordinator when making Iowa administrative code changes, which appear to require substantial editing and which might otherwise be interpreted to exceed the scope of the authority granted in this section.

5. The Iowa Code editor and the administrative code editor shall maintain a record of the changes made under this section. The record shall be available to the public.



6. The Iowa Code editor and the administrative code editor shall not make editorial changes which go beyond the authority granted in this section or other law.

7. The effective date of all editorial changes in an edition of the Iowa Code or a Code Supplement is the effective date of the selling price for that publication as established by the legislative council or the legislative council's designee. The effective date of all editorial changes for the Iowa administrative code is the date those changes are published in the Iowa administrative code.

3.1. Form of bills. Bills designed to amend, revise, codify, or repeal a law:

1. Shall refer to the numbers of the sections or chapters of the Code to be amended or repealed, but it shall not be necessary to refer to such sections or chapters in the title.

2. Shall refer to the session of the general assembly and the sections and chapters of the Acts to be amended if the bill relates to a section or sections of an Act not appearing in the Code or codified in a supplement to the Code.

3. All references to statutes shall be expressed in numerals, and if omitted the Code editor in preparing Acts for publication in the session laws shall supply the numerals.

4. The title to a bill shall contain a brief statement of the purpose of the bill, however all detail matters properly connected with the subject so expressed may be omitted from the title.

3.2. Bill drafting instructions. The legislative council shall, in consultation with the director of the legislative service bureau and the Code editor, promulgate rules and instructions for the drafting of legislative bills and resolutions not otherwise in conflict with the provisions of law and the rules of the senate and the house.

3.3. Headnotes and historical references. Proper headnotes may be placed at the beginning of a section of a bill, and at the end of the section there may be placed a reference to the section number of the Code, or any session law from which the matter of the bill was taken, but, except as provided in the Uniform Commercial Code, section 554.1109, neither said headnotes nor said historical references shall be considered as a part of the law as enacted.

3.4. Bills--approval--passage over veto. If the governor approves a bill, the governor shall sign and date it; if the governor returns it with objections and it afterwards passes as provided in the Constitution, a certificate, signed by the presiding officer of each house in the following form, shall be endorsed thereon or attached thereto: "This bill (or this item of an appropriation bill, as the case may be), having been returned by the governor, with objections, to the house in which it originated, and, after reconsideration, having again passed both houses by yeas and nays by a vote of two-thirds of the members of each house, has become a law this \_\_\_\_\_ day of \_\_\_\_\_."

An "appropriation bill" means a bill which has as its primary purpose the making of appropriations of money from the public treasury.

3.5. Failure of governor to return bill. When a bill has passed the general assembly, and is not returned by the governor within three days as provided in the Constitution, it shall be authenticated by the secretary of state endorsing thereon: "This bill, having remained with the governor three days (Sunday excepted), the general assembly being in session, has become a law this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ Secretary of State."

3.7. Effective dates of Acts and resolutions.

1. All Acts and resolutions of a public nature passed at regular sessions of the general assembly shall take effect on the first day of July following their passage, unless some other specified time is provided in an Act or resolution.

2. All Acts and resolutions of a public nature which are passed prior to July 1 at a regular session of the general assembly and which are approved by the governor on or after July 1, shall take effect forty-five days after approval. However, this subsection shall not apply to Acts provided for in section 3.12 or Acts and resolutions which specify when they take effect.

3. All Acts and resolutions passed at a special session of the general assembly shall take effect ninety days after adjournment of the special session unless a different effective day is stated in an Act or resolution.

4. An Act which is effective upon enactment is effective upon the date of signature by the governor; or if the governor fails to sign it and returns it with objections, upon the date of passage by the general assembly after reconsideration as provided in article III, section 16 of the Constitution of the State of Iowa; or if the governor fails to sign or return an Act submitted during session, but prior to the last three days of a session, on the fourth day after it is presented to the governor for the governor's approval. An Act which has an effective date which is dependent upon the time of enactment shall have the time of enactment determined by the standards of this subsection.

5. A concurrent or joint resolution which is effective upon enactment is effective upon the date of final passage by both chambers of the general assembly, except that such a concurrent or joint resolution requiring the approval of the governor under section 262A.4 or otherwise requiring the approval of the governor is effective upon the date of such approval. A resolution which is effective upon enactment is effective upon the date of passage. A concurrent or joint resolution or resolution which has an effective date which is dependent upon the time of enactment shall have the time of enactment determined by the standards of this subsection.

6. Unless retroactive effectiveness is specifically provided for in an Act or resolution, an Act or resolution which is enacted after an effective date provided in the Act or resolution shall take effect upon the date of enactment.

7. Proposed legalizing Acts shall be published prior to passage as provided in chapter 585.

8. An Act or resolution under this section is also subject to the applicable provisions of sections 16 and 17 of article III of the Constitution of the State of Iowa.

3.11. Private Acts--when effective. Acts of a private nature which do not prescribe the time when they take effect, shall do so on the thirtieth day next after they have been approved by the governor, or endorsed as provided in this chapter.

3.12. Appropriation Acts--effective for fiscal year. All annual appropriations shall be for the fiscal year beginning with July 1 and ending with June 30 of the succeeding year and when such appropriations are made payable quarterly, the quarters shall end with September 30, December 31, March 31, and June 30; but nothing in this section shall be construed as increasing the amount of any annual appropriation.

3.14. Certain appropriations prohibited. No appropriations shall be made to any institution not wholly under the control of the state.

7A.18 Legislative bills. The bills introduced in the general assembly shall be printed on good paper. The style and format of such bills shall be specified by the rules but in the absence of such rules by the legislative council. The number of copies of each bill to be printed unless otherwise ordered shall be fixed by the superintendent according to the needs of the general assembly, and to supply subscribers therefor.

\* \* \* \* \*

The preceding constitutional provisions and statutes are the provisions which directly relate to the authority to provide for the form of bills and resolutions. It may appear, at first glance, that there are certain contradictions between some of the provisions. However, construing all provisions together, it appears that the Legislative Council in consultation with the Director of the Legislative Services Agency and the Code Editor is given the authority to promulgate rules for the drafting of bills and resolutions when the rules are not in conflict with constitutional and statutory provisions or the rules of the House and Senate.

The procedures followed in providing the guidelines contained in this publication are to provide the guidelines consistent with constitutional, statutory, and rule provisions and subject to the approval of the two houses of the General Assembly. Consultation with the proper officers has been carried out in all cases.

There are many other constitutional, statutory, and rule provisions which affect the contents of bills and resolutions, rather than the form. These provisions and the construction placed upon them are discussed in the next division of this publication.

### **3. RULES OF THE GENERAL ASSEMBLY.**

The following Joint Rules, Senate Rules, House Rules, and Legislative Council Rules are pertinent to the drafting of resolutions, bills, and amendments. Only the pertinent part of each rule is reprinted for the drafter's information.

#### **A. JOINT RULES**

**(Adopted for the 2011 and 2012 Sessions.)**

##### **Rule 5 Printing and Form of Bills and Other Documents**

Bills and joint resolutions shall be introduced, numbered, prepared, and printed as provided by law, or in the absence of such law, in a manner determined by the secretary of the senate and the chief clerk of the house of representatives. Proposed bills and resolutions which are not introduced but are referred to committee shall be tracked in the legislative computer system as are introduced bills and resolutions. The referral of proposed bills and resolutions to committee shall be entered in the journal.

All bills and joint resolutions introduced shall be in a form and number approved by the secretary of the senate and chief clerk of the house.

The legal counsel's office of each house shall approve all bills before introduction.

##### **Rule 6 Companion Bills**

Identical bills introduced in one or both houses shall be called companion bills. Each house shall designate the sponsor in the usual way followed in parentheses by the sponsor of any companion bill or bills in the other house. The house where a companion bill is first introduced shall print the complete text.

##### **Rule 9 Reintroduction of Bills and Other Measures**

A bill or resolution which has passed one house and is rejected in the other shall not be introduced again during that general assembly.

## **Rule 12**

### **Amendments by Other House**

1. When a bill which originated in one house is amended in the other house, the house originating the bill may amend the amendment, concur in full in the amendment, or refuse to concur in full in the amendment. Precedence of motions shall be in that order. The amendment of the other house shall not be ruled out of order based on a question of germaneness.

a. If the house originating the bill concurs in the amendment, the bill shall then be immediately placed upon its final passage.

b. If the house originating the bill refuses to concur in the amendment, the bill shall be returned to the amending house which shall either:

(1) Recede, after which the bill shall be read for the last time and immediately placed upon its final passage; or

(2) Insist, which will send the bill to a conference committee.

c. If the house originating the bill amends the amendment, that house shall concur in the amendment as amended and the bill shall be immediately placed on final passage, and shall be returned to the other house. The other house cannot further amend the bill.

(1) If the amending house which gave second consideration to the bill concurs in the amendment to the amendment, the bill shall then be immediately placed upon its final passage.

(2) If the amending house refuses to concur in the amendment to the amendment, the bill shall be returned to the house originating the bill which shall either:

(a) Recede, after which the bill shall be read for the last time as amended and immediately placed upon its final passage; or

(b) Insist, which will send the bill to a conference committee.

2. A motion to recede has precedence over a motion to insist. Failure to recede means to insist; and failure to insist means to recede.

3. A motion to lay on the table or to indefinitely postpone shall be out of order with respect to motions to recede from or insist upon and to amendments to bills which have passed both houses.

4. A motion to concur, refuse to concur, recede, insist, or adopt a conference committee report is in order even though the subject matter has previously been acted upon.

## **Rule 17**

### **Fiscal Notes**

A fiscal note shall be attached to any bill or joint resolution which reasonably could have an annual effect of at least one hundred thousand dollars or a combined total effect within five years after enactment of five hundred thousand dollars or more on the aggregate revenues, expenditures, or fiscal liability of the state or its subdivisions. This rule does not apply to appropriation and ways and means measures where the total effect is stated in dollar amounts.

Each fiscal note shall state in dollars the estimated effect of the bill on the revenues, expenditures, and fiscal liability of the state or its subdivisions during the first five years after enactment. The information shall specifically note the fiscal impact for the first two years following enactment and the anticipated impact for the succeeding three years. The fiscal note shall specify the source of the information. Sources of funds for expenditures under the bill shall be stated, including federal funds. If an accurate estimate cannot be made, the fiscal note shall state the best available estimate or shall state that no dollar estimate can be made and state concisely the reason.

The preliminary determination of whether the bill appears to require a fiscal note shall be made by the legal services staff of the legislative services agency. Unless the requestor specifies the request is to be confidential, upon completion of the bill draft, the legal service staff shall immediately send a copy to the fiscal services director for review.

When a committee reports a bill to the floor, the committee shall state in the report whether a fiscal note is or is not required.

The fiscal services director or the director's designee shall review all bills placed on the senate or house calendars to determine whether the bills are subject to this rule.

Additionally, a legislator may request the preparation of a fiscal note by the fiscal services staff for any bill or joint resolution introduced which reasonably could be subject to this rule.

The fiscal services director or the director's designee shall cause to be prepared and shall approve a fiscal note within a reasonable time after receiving a request or determining that a bill is subject to this rule. All fiscal notes approved by the fiscal services director or the director's designee shall be transmitted immediately to the secretary of the senate or the chief clerk of the house, after notifying the sponsor of the bill that a fiscal note has been prepared, for publication in the daily clip sheet. The secretary of the senate or chief clerk of the house shall attach the fiscal note to the bill as soon as it is available.

The fiscal services director may request the cooperation of any state department or agency in preparing a fiscal note.

A revised fiscal note may be requested by a legislator if the fiscal effect of the bill has been changed by adoption of an amendment. However, a request for a revised fiscal note shall not delay action on a bill unless so ordered by the presiding officer of the house in which the bill is under consideration.

If a date for adjournment has been set, then a constitutional majority of the house in which the bill is under consideration may waive the fiscal note requirement during the three days prior to the date set for adjournment.

## **Rule 20**

### **Time of Committee Passage and Consideration of Bills**

1. This rule does not apply to concurrent or simple resolutions, joint resolutions nullifying administrative rules, senate confirmations, bills embodying redistricting plans prepared by the legislative services agency pursuant to chapter 42, or bills passed by both houses in different forms. Subsection 2 of this rule does not apply to appropriations bills, ways and means bills, government oversight bills, legalizing acts, administrative rules review committee bills, bills sponsored by standing committees in response to a referral from the president of the senate or the speaker of the house of representatives relating to an administrative rule whose effective date has been delayed until the adjournment of the next regular session of the general assembly by the administrative rules review committee, bills cosponsored by majority and minority floor leaders of one house, bills in conference committee, and companion bills sponsored by the majority floor leaders of both houses after consultation with the respective minority floor leaders. For the purposes of this rule, a joint resolution is considered as a bill. To be considered an appropriations, ways and means, or government oversight bill for the purposes of this rule, the appropriations committee, the ways and means committee, or the government oversight committee must either be the sponsor of the bill or the committee of first referral in the originating house.
2. To be placed on the calendar in the house of origin, a bill must be first reported out of a standing committee by Friday of the 8th week of the first session and the 7th week of the second session. To be placed on the calendar in the other house, a bill must be first reported out of a standing committee by Friday of the 12th week of the first session and the 10th week of the second session.
3. During the 10th week of the first session and the 8th week of the second session, each house shall consider only bills originating in that house and unfinished business. During the 13th week of the first session and the 11th week of the second session, each house shall consider only bills originating in the other house and unfinished business. Beginning with the 14th week of the first session and the 12th week of the second session, each house shall consider only bills passed by both houses, bills exempt from subsection 2, and unfinished business.
4. A motion to reconsider filed and not disposed of on an action taken on a bill or resolution which is subject to a deadline under this rule may be called up at any time

before or after the day of the deadline by the person filing the motion or after the deadline by the majority floor leader, notwithstanding any other rule to the contrary.

## **Rule 21 Resolutions**

1. A “concurrent resolution” is a resolution to be adopted by both houses of the general assembly which expresses the sentiment of the general assembly or deals with temporary legislative matters. It may authorize the expenditure, for any legislative purpose, of funds appropriated to the general assembly. A concurrent resolution is not limited to, but may provide for a joint convention of the general assembly, adjournment or recess of the general assembly, or requests to a state agency or to the general assembly or a committee. A concurrent resolution requires the affirmative vote of a majority of the senators or representatives present and voting unless otherwise specified by statute. A concurrent resolution does not require the governor’s approval unless otherwise specified by statute. A concurrent resolution shall be filed with the secretary of the senate or the chief clerk of the house. A concurrent resolution shall be printed in the bound journal after its adoption.

2. A “joint resolution” is a resolution which requires for approval the affirmative vote of a constitutional majority of each house of the general assembly. A joint resolution which appropriates funds or enacts temporary laws must contain the clause “Be It Enacted by the General Assembly of the State of Iowa:”, is equivalent to a bill, and must be transmitted to the governor for approval. A joint resolution which proposes amendments to the Constitution of the State of Iowa, ratifies amendments to the Constitution of the United States, proposes a request to Congress or an agency of the government of the United States of America, proposes to Congress an amendment to the Constitution of the United States of America, nullifies an administrative rule, or creates a special commission or committee must contain the clause “Be It Resolved by the General Assembly of the State of Iowa:” and shall not be transmitted to the governor. A joint resolution shall not amend a statute in the Code of Iowa.

## **Rule 22 Nullification Resolutions**

A “nullification resolution” is a joint resolution which nullifies all of an administrative rule, or a severable item of an administrative rule adopted pursuant to chapter 17A of the Code. A nullification resolution shall not amend an administrative rule by adding language or by inserting new language in lieu of existing language.

A nullification resolution is debatable, but cannot be amended on the floor of the house or senate. The effective date of a nullification resolution shall be stated in the resolution. Any motions filed to reconsider adoption of a nullification resolution must be disposed of within one legislative day of the filing.



## **B. SENATE RULES**

### **Rule 12**

#### **Form and Withdrawal of Motions, Amendments and Signatures**

Motions need not be in writing unless required by the president or by the senate. No motion requires a second. Any amendment, motion (including a motion to reconsider), or resolution may be withdrawn by the mover if it has not been amended by the senate and if no amendment is pending. All amendments to bills, resolutions, and reports shall be in writing and filed before being acted upon by the senate.

No amendment, resolution, bill, or conference committee report shall be considered by the senate without a copy of the amendment, resolution, bill, or conference committee report being on the desks of the entire membership of the senate prior to consideration. However, after the fourteenth week of the first session and the twelfth week of the second session, amendments and senate resolutions may be considered by the senate without a copy of the amendment or senate resolution being on the desks of the entire membership of the senate if a copy of the amendment or senate resolution is made available to the entire membership of the senate electronically. Such consideration shall be deferred until a copy of the amendment or senate resolution is on the desks of the entire membership of the senate upon the request of any senator.

All amendments, reports, petitions or other documents requiring a signature shall have the name printed under the place for the signature. Once a signature is affixed and the document containing the signature filed with the recording clerk in the well, that signature shall not be removed.

When an amendment to a main amendment is filed that would negate the effect of the main amendment and thereby leave the bill unchanged, the presiding officer shall have the authority to declare the amendment to the main amendment out of order, subject to an appeal to the full senate.

When a house amendment to a senate file is before the senate, an amendment to the house amendment shall be considered an amendment in the first degree.

Regardless of its origin, an amendment in the third degree shall be ruled out of order.

When a ruling on germaneness is issued by the presiding officer, it shall be accompanied by an explanation of the ruling.

### **Rule 13**

#### **Order and Precedence of Motions and Amendments**

When a question is under debate, no motion shall be received but to adjourn, to recess, questions of privilege, to lay on the table, for the previous question, to postpone to a day certain, to refer, to amend, to postpone indefinitely, to defer, or incidental motions. A substitute is not in order unless it is in the form of a motion to substitute. Such motions shall have precedence in the order in which they are named. No motion to postpone to a day certain, to refer, or postpone indefinitely, being decided, shall be again allowed on the same day with regard to the same question. A motion to strike out the enacting clause of a bill shall have precedence over all amendments and, if carried, shall be considered equivalent to the rejection of the bill.

A motion to strike everything after the enacting clause has precedence over a committee amendment and all other amendments except one to strike the enacting clause. A committee amendment has precedence over all other amendments except as provided in this rule.

A motion to rerefer a bill to committee may specify when the committee shall report the bill to the senate. If the motion is adopted in such form, the committee must report the bill by the date and time specified with or without recommendation or the bill shall automatically be returned to the calendar. When the bill is returned to the calendar, it shall occupy the same position it occupied at the time the bill was rereferred to the committee. If the committee to which the bill is rereferred submits an amendment in its report, that committee amendment shall take precedence over other amendments except if that committee amendment is in conflict with amendments previously adopted, the committee amendment shall not be considered until consideration of motions to reconsider the previously adopted amendments result in removing the conflict. A committee may not file an amendment to a bill unless the bill is in the committee's possession.

## **Rule 26**

### **Time and Method of Introducing Bills and Amendments**

All bills to be introduced in the senate shall be typed in proper form by the legislative services agency and shall be filed with the recording clerk.

All amendments shall be typed in proper form and filed with the recording clerk not later than 4:30 p.m., or adjournment, whichever is later, in order to be listed in the following day's clip sheet.

An "impact amendment" is an amendment which reasonably could have an annual effect of at least one hundred thousand dollars or a combined total effect within five years after enactment of five hundred thousand dollars or more on the aggregate revenues, expenditures or fiscal liability of the state or its subdivisions.

An impact amendment to a bill which has been on the special order calendar for at least three full legislative days prior to its consideration shall not be taken up by the senate unless:

- 1) a fiscal note is attached, and the amendment is filed at least one legislative day prior to the date set for consideration of the bill; or
- 2) the amendment is an appropriation or other measure where the total effect is stated in dollar amounts.

### **Rule 27** **Limit on Introduction of Bills**

No bill or joint resolution, except bills and joint resolutions cosponsored by the majority and minority floor leaders, or companion bills and joint resolutions sponsored by the majority floor leaders of both houses, shall be introduced in the senate after 4:30 p.m. on Friday of the fifth week of the first regular session of a general assembly unless a formal request for drafting the bill has been filed with the legislative services agency before that time. After adjournment of the first regular session, bills may be prefiled at any time before the convening of the second regular session. No bill shall be introduced after 4:30 p.m. on Friday of the second week of the second regular session of a general assembly unless a formal request for drafting the bill has been filed with the legislative services agency before that time. However, standing committees may introduce bills and joint resolutions at any time. A bill which relates to departmental rules sponsored by the administrative rules review committee and approved by a majority of the members of the committee in each house may be introduced at any time and must be referred to a standing committee which must take action on the bill within three weeks. Senate and concurrent resolutions may be introduced at any time.

No bill, joint resolution, concurrent resolution or senate resolution shall be introduced at any extraordinary session unless sponsored by a standing committee, the majority and minority floor leaders, or the committee of the whole.

### **Rule 29** **Explanations**

No bill, except appropriation committee bills and simple or concurrent resolutions, shall be introduced unless a concise and accurate explanation is attached. The chief sponsor or a committee to which the bill has been referred may add a revised explanation at any time before the last reading, and it shall be included in the daily clip sheet.

## **Rule 30 Resolutions**

A "senate resolution" is a resolution acted upon only by the senate which relates to an accomplishment of national or international status; the dedication of a day by a statewide or national group; the one hundredth, one hundred twenty-fifth, or one hundred fiftieth anniversary of a local government or organization; the recognition of state ties to other governments; the retirement of a senator or long-time senate employee; or to rules and administrative matters, including the appointment of special committees within the senate. A senate resolution requires the affirmative vote of a majority of the senators present and voting, unless otherwise required in these rules. A senate resolution shall be filed with the secretary of the senate. A senate resolution shall be printed in the bound journal after its adoption and in the daily journal upon written request to the secretary of the senate by the sponsor of the resolution. Other expressions of sentiment or recognition may be made with the issuance of a certificate of recognition.

## **Rule 33 Study Bills**

1. A study bill is any matter which a senator wishes to have considered by a standing committee or appropriations subcommittee for introduction as a committee bill or resolution. The term "study bill" includes "proposed bills" provided for in Rule 37 and departmental requests prefiled in the manner specified in section 2.16 of the Code.
2. A study bill shall bear the name of the member who wishes to have the bill considered. A study bill proposed by a state agency shall bear the name of the agency. A committee chair may submit a study bill in the name of that committee.
3. Upon first receiving a study bill from a senator, a committee chairperson shall submit three copies to the secretary of the senate. Study bills received in the secretary of the senate's office before 3:00 p.m. shall be filed, numbered, and reported in the journal for that day. Study bills received in the secretary of the senate's office after 3:00 p.m. shall be filed, numbered, and reported in the journal for the subsequent day. The secretary shall number such bills in consecutive order. The secretary shall maintain a record of all study bills and their assigned number. Committee records shall refer to study bills by the number assigned by the secretary.

4. The secretary shall file a report in the journal of each study bill received. The report shall show the study bill number, its title or subject matter and the committee which is considering it. If a study bill is referred to a subcommittee, then the committee chairperson shall report in the journal the names of the subcommittee members to which it is assigned.

5. If a committee bill or resolution is introduced which was not previously the subject of a study bill in the sponsoring committee, the majority leader may re-refer the bill back to the committee.

6. A study bill not prepared by the legislative services agency may be submitted to a standing committee, but shall not be considered by the full committee unless reviewed and typed in proper form by the legislative services agency.

### **Rule 39** **Rules for Standing Committees**

The following rules shall govern all standing committees of the senate. Any committee may adopt additional rules which are consistent with these rules:

1. A majority of the members shall constitute a quorum.

2. The chair of a committee shall refer each bill and resolution to a subcommittee within seven days after the bill or resolution has been referred to the committee. The chair may appoint subcommittees for study of bills and resolutions without calling a meeting of the committee, but the subcommittee must be announced at the next meeting of the committee. No bill or resolution shall be reported out of a committee until the next meeting after the subcommittee is announced, except that the chair of the appropriations committee may make the announcement of the assignment to a subcommittee by placing a notice in the journal. Any bill so assigned by the appropriations committee chair shall be eligible for consideration by the committee upon report of the subcommittee but not sooner than three legislative days following the publication of the announcement in the journal.

When a bill or resolution has been assigned to a subcommittee, the chair shall report to the senate the bill or resolution number and the names of the subcommittee members and such reports shall be reported in the journal. Subcommittee assignments shall be reported to the journal daily. Reports filed before 3:00 p.m. shall be printed in the journal for that day; reports filed after 3:00 p.m. shall be printed in the journal for the subsequent day.

Where standing subcommittees of any committee have been named, the names of the members and the title of the subcommittee shall be published once and thereafter publication of assignments may be made by indicating the title of the subcommittee.

3. No bill or resolution shall be considered by a committee until it has been referred to a subcommittee and the subcommittee has made its report unless otherwise ordered by a majority of the members.

4. The rules adopted by a committee, including subsections 2, 3, 9, 10, 11, and 12 of this rule, may be suspended by an affirmative vote of a majority of the members of the committee.

5. The affirmative vote of a majority of the members of a committee is needed to sponsor a committee bill or resolution or to report a bill or resolution out for passage.

6. The vote on all bills and resolutions shall be by roll call unless a short-form vote is unanimously agreed to by the committee. A record shall be kept by the secretary.

7. No committee, except a conference committee or the steering committee, is authorized to meet when the senate is in session.

8. A subcommittee shall not report a bill to the committee unless the bill has been typed into proper form by the legislative services agency.

9. A bill or resolution shall not be voted upon the same day a public hearing called under subsection 10 is held on that bill or resolution.

10. Public hearings may be called at the discretion of the chair. The chair shall call a public hearing upon the written request of one-half the membership of the committee. The chair shall set the time and place of the public hearing.

11. A subcommittee chair must notify the committee chair not later than one legislative day prior to bringing the bill or resolution before the committee. The committee cannot vote on a bill or resolution for at least one full day following the receipt of the subcommittee report by the chairperson.

12. A motion proposing action on a bill or resolution that has been defeated by a committee shall not be voted upon again at the same meeting of the committee.

13. Committee meetings shall be open.

#### **Rule 40 Voting in Committee**

All committee meetings shall be open at all times. Voting by secret ballot is prohibited. Roll call votes shall be taken in each committee when final action on any bill or resolution is voted, unless a short-form vote is unanimously agreed to by the committee. A roll call vote also shall be taken in each committee at the request of a member upon any amendment or motion. All results shall be entered in the minutes which shall be public records. Records of these votes shall be made available by the chair or the committee secretary at any time. This rule also applies to the appropriations subcommittees.

The committee shall not authorize the introduction of a committee bill or resolution until the members have received final copies of the bill or resolution with amendments or changes incorporated, and typed into proper form by the legislative services agency. The committee may, by unanimous consent, dispense with this requirement and instruct the legislative services agency to file a report with the committee members detailing the amendments or changes and this report shall become a part of the committee report.

### **C. HOUSE RULES**

#### **Rule 27 Forms of Bills and Joint Resolutions**

Every house bill shall be introduced by one or more members or by any standing or specially authorized committee of the house or the administrative rules review committee. All bills and joint resolutions introduced shall be prepared by the legislative services agency with title, enacting clause, text and explanation as directed by the chief clerk of the house. One copy of each bill shall be presented in a bill cover with the number of copies of the bill and the title as directed by the chief clerk.

#### **Rule 28 Joint and Nullification Resolutions**

Joint resolutions shall be framed and treated as bills.

A “nullification resolution” is a joint resolution which nullifies all of an administrative rule, or a severable item of an administrative rule adopted pursuant to chapter 17A of the Code. A nullification resolution shall not amend an administrative rule by adding language or by inserting new language in lieu of existing language.

A nullification resolution may be introduced by an individual, a standing committee or the administrative rules review committee, and may be referred to a standing committee. A nullification resolution is debatable, but cannot be amended on the floor of the house.

### **Rule 29 Time of Introduction of Bills**

No bill or joint resolution under individual sponsorship, other than a nullification resolution, shall be read for the first time after 4:30 p.m. on Friday of the 5th week of the first regular session of the general assembly unless a formal request for drafting the bill has been filed with the legislative services agency before that time.

After adjournment of the first regular session, bills may be prefiled at any time before the convening of the second regular session. No bill or joint resolution under individual sponsorship, other than a nullification resolution, shall be read for the first time after 4:30 p.m. on Friday of the second week of the second regular session of the general assembly unless a formal request for drafting the bill has been filed with the legislative services agency before that time.

However, bills or joint resolutions sponsored by standing committees or the administrative rules review committee, co-sponsored by the majority and minority floor leaders, or companion bills sponsored by the house majority leader and the senate majority leader may be drafted and introduced at any time permissible under Joint Rule 20. House, concurrent, and nullification resolutions may be introduced at any time.

### **Rule 31 First Reading, Commitment, and Amendment**

1. A bill is introduced into the house by an initial or “first reading of the bill”.
  
2. When the house is in session the first reading shall consist of a “reading” as provided in Rule 30.



3. Upon a first reading of the bill, the speaker shall state that it is ready for commitment or amendment; and the speaker shall commit it to the standing or select committee, or to a committee of the whole house. If to a committee of the whole house, the house shall determine on what day.

4. On a nonlegislative day the speaker may cause a statement, which shall consist of the title, enacting clause, bill number and committee to which the bill is referred, to be published in the house journal. This publication shall constitute a first reading and commitment and shall contain the notation "read and committed under Rule 31".

5. All amendments offered to bills and resolutions shall be accompanied by such copies as the chief clerk shall direct.

6. Such amendments shall give the number of the bill sought to amend and the chief clerk shall designate each such amendment thus: Amendment to House File \_\_\_\_\_, or Senate File \_\_\_\_\_, by \_\_\_\_\_.

7. A bill reported out by committee shall go to the speaker who shall direct that the bill be placed on the regular calendar unless it covers subject matter more properly within the jurisdiction of some other standing committee, in which case the speaker shall refer the bill to the proper standing committee. In order to expedite important business and set a definite time for the bill's consideration, the speaker may direct the bill to be placed on the special order calendar.

8. No amendment to the rules of the house, to any resolution or bill, except technical amendments and amendments to bills substituted for by senate files containing substantially identical title, language, subject matter, purpose and intrasectional arrangement, shall be considered by the membership of the house without a copy of the amendment having been filed with the chief clerk by 4:00 p.m. or within one-half hour of adjournment, whichever is later, on the day preceding floor debate on the amendment. If the house adjourns prior to 2:00 p.m. on Friday, the final deadline is two hours after adjournment. However, committee amendments filed pursuant to the submission of the committee report may be accepted after this deadline. This provision shall not apply to any proposal debated on the floor of the house after the thirteenth week of the first session and the eleventh week of the second session. No amendment or amendment to an amendment to a bill, rule of the house, or resolution shall be considered by the membership of the house without a copy of the amendment being on the desks of the entire membership of the house prior to consideration. However, after the fourteenth week of the first session and the twelfth week of the second session, the membership of the house may consider an amendment or an amendment to an amendment to a bill, rule of the house, or resolution without a copy of the amendment being on the desks of

the entire membership of the house prior to consideration if a copy of the amendment is made available to the entire membership of the house electronically.

### **Rule 48 Study Bills**

A study bill is any matter which a member of the house wishes to have considered by a standing committee, other than appropriations, without being introduced in the house by a first reading. A study bill shall be prepared in proper form by the legislative services agency prior to submission.

Upon taking possession of a study bill, the committee chair shall notify the speaker and then submit four copies of the bill to the legal counsel's office for numbering.

A study bill shall bear the name of the member who wishes to have the bill considered. A study bill submitted by a state agency or board for consideration shall bear the name of the state agency or board. A committee chair may submit a study bill in the name of that committee.

Final committee action on a study bill shall not be taken until one day following the notation of the study bill assignment in the house journal.

### **Rule 56 Committee Amendment**

Whenever a committee amendment is proposed which would amend another committee amendment, the amendment shall be drafted in the form of a substitute amendment and shall be considered as such.

### **Rule 59 Committee Amendments**

All amendments to a bill or resolution adopted in committee shall be incorporated in a single committee amendment or incorporated in a new committee bill.

### **Rule 68 Order of Consideration of Amendments**

Amendments shall be considered by earliest position in the bill. Amendments to the same place in the bill shall be considered by the lowest amendment number. An amendment which inserts language after a line and an amendment which inserts language before the succeeding line shall be considered amendments to the same place in the bill.

However, an amendment to strike the enacting clause shall always be considered first. An amendment filed by a committee shall have the next highest order of priority, followed by an amendment to strike everything after the enacting clause and insert new language. An amendment to strike language or to strike and insert new language, except an amendment to strike everything after the enacting clause and insert new language, shall not be considered before amendments to perfect all or part of the same portion of the bill.

#### **D. LEGISLATIVE COUNCIL RULES**

**Submission of Prefiled Proposed Bills.** Prefiled proposed bills and resolutions of state departments and agencies shall be submitted to the Legislative Services Agency no later than 45 days prior to the convening of the regular session in January (most often the Friday after Thanksgiving). However, if that day is a state holiday, the deadline is the following Monday. The proposals shall be in bill draft or resolution form or shall be as specific as possible as to the Code changes desired. The Legislative Services Agency will review the proposal, make suggestions as to nonsubstantive changes or corrections, confer with the department or agency representative in regard to the proposal, prepare an objective explanation for the bill, and prepare the bill in final form. Once the bill is in final form, the Legislative Services Agency, not the department or agency, will submit the bill in proper form to the presiding officer of the two houses for referral to the proper standing committee. Prefiled and predrafted bills and resolutions requested by legislators will, however, receive priority consideration by the Legislative Services Agency over departmental and agency bills and resolutions. Proposed bills and resolutions submitted by departments and agencies after the deadline, will not be assigned to a staff member unless a legislative sponsor is obtained.

## **DIVISION B -- CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS AFFECTING THE CONTENTS OF BILLS AND CONSTRUCTION OF THEIR PROVISIONS**

There are many constitutional and statutory provisions governing the contents of bills and resolutions. Strict attention should be given to these provisions and the construction given to them by the Iowa Supreme Court and the courts of other states. This is particularly true in regard to those mandates contained in the Constitution. The rules of statutory construction contained in Chapter 4 of the Code should be read carefully and followed since they provide very helpful guides which will simplify bill drafting. The same holds true with the rules of statutory construction handed down by the Iowa courts. The following is a list of the pertinent constitutional, statutory, and rules of statutory construction provisions. Excerpts as to the manner in which they have been construed by the courts as well as excerpts as to rules of statutory construction promulgated by the courts follow the listing.

## **1. IOWA CONSTITUTIONAL PROVISIONS.**

Article I, Section 3. Religion. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

Article I, Section 6. Laws uniform. All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.

Article I, Section 7. Liberty of speech and press. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No laws shall be passed to restrain or abridge the liberty of speech, or of the press.

Article I, Section 9. Right of trial by jury--due process of law. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

Article I, Section 18. Eminent domain--drainage ditches and levees. (Amendment 13 of 1908). The general assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agriculture, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains and ditches and to keep in repair all drains, ditches, and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The general assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

Article I, Section 21. Attainder--ex post facto law--obligation of contract. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

Article III, Of The Distribution Of Powers, Section 1. Departments of government. The powers of the government of Iowa shall be divided into three separate departments--the legislative, the executive, and the judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Article III, Legislative Department, Section 1. General assembly. The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives: and the style of every law shall be. "Be it enacted by the General Assembly of the State of Iowa."

Article III, Section 15. Bills. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses.

Article III, Section 24. Appropriations. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Article III, Section 26. (Amendment 40 of 1986) Time laws to take effect. An act of the general assembly passed at a regular session of a general assembly shall take effect on July 1 following its passage unless a different effective date is stated in an act of the general assembly. An act passed at a special session of a general assembly shall take effect ninety days after adjournment of the special session unless a different effective date is stated in an act of the general assembly. The general assembly may establish by law a procedure for giving notice of the contents of acts of immediate importance which become law.

Article III, Section 29. Acts--one subject--expressed in title. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Article III, Section 30. Local or special laws--general and uniform--boundaries of counties. The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, County, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For incorporation of cities and towns;

For vacating roads, town plats, streets, alleys, or public squares;

For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

Article III, Section 38A. Municipal Home Rule. Municipal corporations are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly.

The rule or proposition of law that a municipal corporation possesses and can exercise only those powers granted in express words is not a part of the law of this state.

Article III, Section 39A. Counties Home Rule. Counties or joint county-municipal corporation governments are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The general assembly may provide for the creation and dissolution of joint county-municipal corporation governments. The general assembly may provide for the establishment of charters in county or joint county-municipal corporation governments.

If the power or authority of a county conflicts with the power and authority of a municipal corporation, the power and authority exercised by a municipal corporation shall prevail within its jurisdiction.

The proposition or rule of law that a county or joint county-municipal corporation government possesses and can exercise only those powers granted in express words is not a part of the law of this state.

Article III, Section 40. (Amendment 38 of 1984) Nullification of administrative rules. The general assembly may nullify an adopted administrative rule of a state agency by the passage of a resolution by a majority of all of the members of each house of the general assembly.

Article VII, Section 1. Credit not to be loaned. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State.

Article VII, Section 2. Limitation. The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Article VII, Section 5. Contracting debt--submission to the people. Except the debts herein before specified in this article, no debt shall be hereafter contracted by, or on behalf of this state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

Article VII, Section 7. Tax imposed distinctly stated. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

Article VII, Section 8. (Amendment 18 of 1942). Motor vehicle fees and fuel taxes. All motor vehicle registration fees and all licenses and excise taxes on motor vehicle fuel, except cost of administration, shall be used exclusively for the construction, maintenance and supervision of the public highways exclusively within the state or for the payment of bonds issued or to be issued for the construction of such public highways and the payment of interest on such bonds.

Article VIII, Section 1. How created. No corporation shall be created by special laws; but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Article VIII, Section 2. Taxation of corporations. The property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals.

Article VIII, Section 3. State not to be a stockholder. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

Article VIII, Section 4. Municipal Corporations. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

## **2. STATUTORY PROVISIONS.**

Selected statutory provisions affecting the contents of legislative bills follow. While many of these provisions do not dictate exactly what should be contained within a particular legislative bill, they do provide the rules for interpreting statutes which in turn dictate the manner of expressing and writing text of legislative bills and resolutions. Knowledge of the rules of statutory construction will help the bill drafter to properly frame the contents of a bill and express the intent of the legislation in a clear and uniform manner.

Section 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. 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.
2. "Child" includes child by adoption.
3. 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" mean the office of that clerk.
4. Consanguinity and affinity. Degrees of consanguinity and affinity shall be computed according to the civil law.
5. "Court employee" and "employee of the judicial department" include every officer or employee of the judicial department except a judicial officer.
6. 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.



7. Executor — administrator. The term "executor" includes administrator, and the term "administrator" includes executor, where the subject matter justifies such use.
8. Figures and words. If there is a conflict between figures and words in expressing a number, the words govern.
9. 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".
10. Issue. The word "issue" as applied to descent of estates includes all lawful lineal descendants.
11. 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.
12. "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.
13. 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.<sup>13A</sup> "Livestock" includes but is not limited to an animal classified as an ostrich, rhea, or emu.
14. "Magistrate" means a judicial officer appointed under chapter 602, article 6, part 4.
15. Persons with mental illness. The words "persons with mental illness" include persons with psychosis, persons who are severely depressed, 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.
16. 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".
17. 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.
18. Numerals — figures. The Roman numerals and the Arabic figures are to be taken as parts of the English language.

19. 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".
20. Person. Unless otherwise provided by law, "person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
21. Personal property. The words "personal property" include money, goods, chattels, evidences of debt, and things in action.
22. 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.
23. "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.
24. Property. The word "property" includes personal and real property.
25. Quorum. A quorum of a public body is a majority of the number of members fixed by statute.
26. 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.
27. "Rule" includes "regulation".
28. 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.
29. Series. If a statute refers to a series of numbers or letters, the first and the last numbers or letters are included.
30. Shall, must, and may. 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.

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

32. 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.

33. Tense. Words in the present tense include the future.

34. 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. However, when by the provisions of a statute or rule prescribed under authority of a statute, the last day for the commencement of an action or proceedings, the filing of a pleading or motion in a pending action or proceedings, or the perfecting or filing of an appeal from the decision or award of a court, board, commission, or official falls on a Saturday, a Sunday, a day on which the office of the clerk of the district court is closed in whole or in part pursuant to the authority of the supreme court, the first day of January, the third Monday in 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 when any of the foregoing named legal holidays 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 shall be extended to include the next day which the office of the clerk of the court or the office of the board, commission, or official is open to receive the filing of a commencement of an action, pleading or a motion in a pending action or proceeding, or the perfecting or filing of an appeal.

35. "United States" includes all the states.

36. The word "week" means seven consecutive days.

37. Will. The word "will" includes codicils.

38. 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.

39. 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 disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.

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

40. The word "year" means twelve consecutive months.

Section 4.2. Common law rule of construction. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. Its provisions and all proceedings under it shall be liberally construed with a view to promote its objects and assist the parties in obtaining justice.

Section 4.3. References to other statutes. Any statute which adopts by reference the whole or a portion of another statute of this state shall be construed to include subsequent amendments of the statute or the portion thereof so adopted by reference unless a contrary intent is expressed.

Section 4.4. Presumption of enactment. In enacting a statute, it is presumed that:

1. Compliance with the Constitutions of the state and of the United States is intended.
2. The entire statute is intended to be effective.
3. A just and reasonable result is intended.
4. A result feasible of execution is intended.
5. Public interest is favored over any private interest.

Section 4.5. Prospective statutes. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Section 4.6. Ambiguous statutes--interpretation. If a statute is ambiguous, the court, in determining the intention of the legislature, may consider among other matters:

1. The object sought to be attained.
2. The circumstances under which the statute was enacted.
3. The legislative history.
4. The common law or former statutory provisions, including laws upon the same or similar subjects.

5. The consequences of a particular construction.
6. The administrative construction of the statute.
7. The preamble or statement of policy.

Section 4.7. Conflicts between general and special statutes. If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision.

Section 4.8. Irreconcilable statutes. If statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment by the general assembly prevails. If provisions of the same act are irreconcilable, the provision listed last in the act prevails.

Section 4.9. Official copy prevails. If the language of the official copy of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the official copy prevails.

Section 4.10. Re-enactment of statutes--continuation. A statute which is re-enacted, revised or amended is intended to be a continuation of the prior statute and not a new enactment, so far as it is the same as the prior statute.

Section 4.11. Conflicting amendments to same statutes--interpretation. If amendments to the same statute are enacted at the same or different sessions of the general assembly, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment by the general assembly prevails.

Section 4.12. Acts or statutes are severable. If any provision of an act or statute or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act or statute which can be given effect without the invalid provision or application, and to this end the provisions of the act or statute are severable.

Section 4.13. General savings provision. The re-enactment, revision, amendment, or repeal of a statute does not affect:

1. The prior operation of the statute or any prior action taken thereunder;
2. Any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred thereunder;
3. Any violation thereof or penalty, forfeiture, or punishment incurred in respect thereto, prior to the amendment or repeal; or

4. Any investigation, proceeding, or remedy in respect of any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

If the penalty, forfeiture, or punishment for any offense is reduced by a re-enactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment if not already imposed shall be imposed according to the statute as amended.

### **3. RULES OF STATUTORY CONSTRUCTION APPLIED BY COURTS TO CONSTITUTIONAL AND STATUTORY PROVISIONS AND IN GENERAL.**

The Iowa Supreme Court has ruled on the construction of the various constitutional mandates in regard to bill drafts and statutes in many instances. Hundreds of cases exist in regard to word usage, common law rules, and rules of statutory construction. It is most important that a bill drafter be aware of the manner in which the courts have ruled in regard to construing statutes, constitutional provisions, and word usage. The following are samples of court decisions construing the constitution and statutes. They are by no means a complete listing, but should aid by informing the bill drafter of the manner in which particular provisions have been construed by the courts.

#### **Constitutionality presumed.**

Regularly enacted laws are presumed to be constitutional, and this presumption must be overcome by one attacking the statute by proving its invalidity beyond a reasonable doubt. 105 N.W.2d 650. Courts are reluctant to declare a legislative enactment unconstitutional, and will do so only when the violation is clear, palpable and practically free from doubt. 113 N.W.2d 724. All presumptions are in favor of the constitutionality of a statute and it will not be held invalid unless it is clear, plain and palpable that such a decision is required. 95 N.W.2d 441.

#### **Initiative and referendum.**

The legislature has no power to make the operation or repeal of a law dependent upon a vote of the people. 33 Iowa 134. Though the legislature cannot submit to a popular vote of the people the question whether or not an act proposed by it shall become a law, an act designed to affect only local government conditions, which is complete in itself, and requires nothing further to give it validity as a legislative act, may be submitted to the electors of a subdivision of the state, that they may determine on popular vote whether they will adopt these provisions. . . 137 Iowa 452.

### **One subject.**

(Art. III, Section 29) Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title.

Constitutional requirement that every act shall embrace but one subject is not intended to prohibit any number of provisions in one bill having one general subject, fairly indicated by the title, and it is not necessary that the title be an index of the act nor that every provision of the several sections be enumerated in the title. 131 N.W.2d 5.

The constitutional provision that every act shall embrace but one subject shall receive a broad and liberal construction and not a narrow, technical, critical one. 131 N.W.2d 5. This section is to be liberally construed so that one act may embrace all matters reasonably connected with the subject expressed in the title and not utterly incongruous thereto.

In a 1989 Iowa supreme court case, the court stated that "in order for a violation of the single-subject requirement to exist, the challenged legislation must embrace two or more dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other. This does not mean that any two subjects in a multifaceted piece of legislation must, in isolation, demonstrably relate to each other for the bill to pass constitutional muster. It is only necessary to show that all subjects relate to a single purpose. This is clear from the language of the constitutional clause itself which provides that every act shall embrace but one subject, and matters properly connected therewith.

Iowa Const. art. III, sec. 29. In interpreting the italicized language, this court recognized early on that the subject of a statute lies in its ultimate objective and not in the detail or steps leading to that objective." Miller v. Bair (235, 88-268, August 16, 1989). The court rejected the single-subject constitutional challenge, stating that the common purpose of the bill was a multifaceted effort to promote economic development and therefore that the bill complied with the single-subject requirement even though the bill contained economic development incentives and state revenue adjustments, characterized by the appellants as unrelated police power functions and revenue functions.

### **Subject not in title.**

If an act embraces a subject not expressed in the title, the act will be void only as to so much thereof as is not thus expressed. 26 Iowa 340.

### **Two subjects in title.**

In 231 N.W.2d 882 the court decided that the act covered two subjects, both of which were expressed in the title, so it was not the situation covered in Art. III, sec. 29 of the Iowa Constitution. The court said that as a general rule an ungermane provision in an

act renders the whole act void. The reason given for this is that a court cannot say which, if either, of the two unrelated parts of the act the legislature would have enacted had the legislature voted on the two parts separately. (However, in this case the court had no difficulty determining which part was primary and which secondary.)

### **Code revision.**

A codification or revision does not relate to more than one subject, and a title expressing the subject is not insufficient for failure to specify each subject to which the statute, as revised, relates. 45 N.W.2d 33.

A constitutional requirement that a bill shall have but one subject expressed in its title has been held either not to apply to codes or is liberally interpreted to sustain the validity of the title identifying a code e.g. Uniform Commercial Code, Internal Revenue Code of 1986, Uniform Transfer to Minor Act. A restrictive title is not regarded as liberally as is a general one. The provisions of a bill which it does not fairly embrace cannot be given force.

**NOTE: Particular title provisions.** It is recommended that particular attention be given to certain provisions which should be placed or emphasized within the title of a bill. Particular attention should be given to penalty provisions, since the courts usually apply a strict construction to penalty provisions, and there is danger that if a penalty provision is contained within a bill and not specifically mentioned in the title, it will be declared void. Although there is no specific constitutional or statutory requirement to include these in the title, for bills that contain an appropriation; that impose, change the rate of, or change the items subject to a tax; or that provide for specific effective or applicability dates, it is recommended that these be expressed in the title since the courts have looked upon the title as providing notice of the subject of the bill and important provisions related to it.

### **Local and special laws.**

(Art. III, Section 30) Under this section the legislature was absolutely prohibited from passing special laws in the enumerated cases. 96 Iowa 521. Generally speaking, laws must be uniform and general and not special in character, but they are not required by the constitution to be general except where a general law can be made applicable. 140 Iowa 163. A statute is general and uniform in its operation, when it operates equally upon all persons who are brought within the relations and circumstances provided for.

### **Construction of statutes.**

Following are some statements of the courts of Iowa, and in some cases other courts, which relate to the manner in which statutes are to be construed. Many of these statements have been codified in Chapter 4 of the Code:



### **Headnotes.**

The headnotes in the various codes form no part of the statutory law of the state. 284 N.W. 110. (NOTE: Headnotes of the Uniform Commercial Code, Chapter 554, are part of that Code. See Section 554.1109.)

### **Tax statutes.**

Taxing statutes are strictly construed against taxing body and liberally in favor of the taxpayer; it must appear from language of statute that tax assessed against taxpayer was clearly intended. 160 N.W.2d 289. However, when a taxpayer relies on a statutory exemption, the exemption is construed strictly against the taxpayer and liberally in favor of the taxing body with any doubts being resolved against exemption. 301 N.W.2d 760.

### **Tax imposed distinctly stated.**

(Article VII, Section 7) (See DIVISION B.) This section does not impose a requirement relating to the title of an act, but only to the manner in which the tax is expressed within the act. 265 N.W.2d 151. This section applies to property taxes and the "object" to which the tax is applied refers to the governmental purpose for which the revenues raised by the tax are to be used, rather than the identity of the property or event being taxed. 362 N.W.2d 557.

### **Construction of acts as a whole.**

All provisions or sections of a statute must be considered together in the light of all other provisions or sections, and, if at all possible, harmonized. 312 N.W.2d 530. Presumption in favor of constitutionality is especially strong where a statute was enacted to promote a public purpose. 134 N.W.2d 534.

### **Reconciliation of acts or statutes.**

A cardinal rule of statutory construction is that, if reasonably possible, effect should be given every part of a statute. 111 N.W.2d 317. The general rule is that if by any fair and reasonable construction statutes dealing with the same subject matter may be reconciled, both shall stand. 104 N.W.2d 564.

### **Definitions.**

The legislature is its own lexicographer and common law, dictionary, and prior definitions by the court must yield when the legislature by express enactment defines its own terms. 69 N.W.2d 534. Legislative definitions are binding on the Supreme Court. 178 N.W.2d 343. But the courts are not bound to follow a statutory definition where

obvious incongruities in the statute would be created or a major purpose of the statute would be defeated or destroyed. 312 N.W.2d 530.

### **Legislative history of act.**

It is proper to resort to legislative history of an act when its meaning is doubtful, but the plain meaning of a statute cannot be affected by resorting to its legislative history. 104 N.W.2d 626.

### **Conflicts--special and general statutes.**

While related statutes are to be construed with reference to each other if there is conflict between a special statute and a general statute, provisions of the special statute control. 251 N.W.2d 496. This rule applies even though the special provision was passed before the general one. A special statute prevails over a general provision only if the two cannot be reconciled. 351 N.W.2d 537. To determine the meaning of a statute as amended it is proper to consider the general ones when they cannot be reconciled. (Where a general statute, if standing alone, would include the same matter as a special statute and thus conflict with it, the special statute will be considered an exception to the general statute whether it was adopted before or after the general statute. 155 N.W.2d 177.)

### **Logical result.**

If a statute is susceptible to more than one reasonable interpretation or application, the court will be constrained to give to it the interpretation which will lead to a logical rather than an illogical result. 111 N.W.2d 309. In statutory interpretation courts seek meaning which is both reasonable and logical and try to avoid results which are strained, absurd, or extreme. 247 N.W.2d 263. In addition, if one interpretation would render the statute ineffective, the other interpretation must be adopted. 224 N.W.2d 437.

### **Retroactive statutes.**

The answer as to when a statute is to be considered retrospective or prospective is found in the intention of the legislature as expressed or as implied from what it has said thereon. 246 N.W.2d 330.

Statutes are presumed to be intended to operate prospectively only, and not retrospectively, however, if the intent to bring about retrospective operation clearly appears, the courts will not hesitate to so construe the statute. 148 N.W.2d 434. The courts have evolved a strict rule of construction against retrospective operation and indulge in the presumption the legislature intended its enactments to operate prospectively only. 101 N.W.2d 705. A statute will not be construed to be retroactive unless it is the intent of the legislature to make it so and such intent is clearly

expressed. 228 N.W.2d 49. The fact that a statute carries an emergency clause making it effective immediately, which would be unnecessary if its operation were retrospective, may be an indication the statute was intended to operate prospectively only. 101 N.W.2d 705.

### **Repeals by implication.**

Repeals by implication are not favored by the courts and will not be upheld unless the intent to repeal clearly and unmistakably appears from the language used and such holding is absolutely necessary (235 N.W.2d 306), and if by any fair and reasonable construction prior or later statutes can be reconciled, both shall stand. 263 N.W. 553.

### **Amended statutes.**

As a general rule where a statute rewrites a former statute and states it "is amended to read as follows" all provisions in the original law not found in the amending act are repealed. 94 N.W.2d 122. An amended act is ordinarily construed as if the original statute had been repealed and a new and independent act in the amended form had been adopted in its stead, but where an amendment leaves portions of the original act unchanged, such portions are continued in force, with the same meaning and effect they had before the amendment. 108 N.W. 902.

### **Expression of one excludes others.**

A rule of statutory construction is that the express mention of one thing implies the exclusion of the others. 335 N.W.2d 439.

### **Attorney general opinions.**

Opinions of the attorney general, while entitled to respectful consideration, are not binding upon the courts whose duty it is to make independent inquiry as to the interpretation to be placed upon a statute. 98 N.W.2d 848.

### **Historical material.**

The terms of a statute are to be interpreted in the light of its historical background and the courts may avail themselves of such aid as may be afforded by historical facts, or by antecedent or a contemporaneous legislative history, or history of the statute.

### **Penal statutes.**

Penal statutes are strictly construed and doubts, if any, are resolved in favor of the individual. 306 N.W.2d 760. Terms of a penal statute creating a new offense must be sufficiently explicit to inform those subject to it what conduct on their part will render them liable to its penalties. The legislature must inform the citizens with reasonable

precision what acts it intends to prohibit so they may have a certain understandable rule of conduct and know what acts it is their duty to avoid.

### **Statutes with same subject matter.**

When statutes relate to the same subject matter, when they are in pari materia, they must be construed together. 325 N.W.2d 770. Statutes are considered in pari materia when they relate to the same person or thing, to the same class of persons or things, or have the same purpose or object. 345 N.W.2d 138 and 368 N.W.2d 147.

### **Singular includes plural.**

The rule that words in a statute that import the singular number may be extended to several persons or things is applicable when one amendment in school reorganization laws uses the singular and another amendment uses the plural.

Normally the singular does include the plural, in order to avoid the necessity of using both singular and plural words throughout the Code, but the rule does not apply where other sections or the framework of the statute demonstrates that the singular was intended. 280 N.W.2d 378.

### **Rule of ejusdem generis.**

The rule of ejusdem generis is to the effect that where general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words. 334 N.W.2d 734. Where the opposite sequence is found, i.e., specific words following general ones, the doctrine is equally applicable, and restricts application of the general term to things that are similar to those enumerated. 301 N.W.2d 685.

The doctrine of ejusdem generis is an attempt to reconcile an incompatibility between specific and general words so that all words in a statute can be given effect, all parts of a statute can be construed together and no words will be superfluous. If the general words are given their full and natural meaning, they would include the objects designated by the specific words, making the latter superfluous. If, on the other hand, the series of specific words is given its full and natural meaning, the general words are partially redundant. The rule accomplishes the purpose of giving effect to both the specific and the general words, by treating the specific words as indicating the class, and the general words as extending the provisions of the statute to everything embraced in that class, though not specifically named.

The resolution of this conflict by allowing the specific words to identify the class and by restricting the meaning of general words to things within the class is justified on the ground that had the legislature intended the general words to be used in their unrestricted sense, it would have made no mention of the specific words.

The doctrine of ejusdem generis applies when the following conditions exist: (1) the statute contains an enumeration by specific words; (2) the members of the enumeration suggest a class; (3) the class is not exhausted by the enumeration; (4) a general reference supplementing the enumeration, usually following it; and (5) there is not clearly manifested an intent that the general term be given a broader meaning than the doctrine requires. 251 N.W.2d 523.

### **"May" and "shall".**

The verb "may" usually is employed as implying permissive or discretionary rather than mandatory action or conduct. 139 N.W.2d 448. In statutory interpretation the mandatory construction is rarely placed on the word "may". 131 N.W.2d 5. When a statute uses the word "shall" in directing a public body to do certain acts, the word is to be construed as mandatory, not permissive, and excludes the idea of discretion. 137 N.W.2d 900. The use of the word "shall" does not, alone, mean that an obligation is mandatory. It should be determined from the context. 318 N.W.2d 188. Statutes in pari materia, i.e., relating to the same matter or subject, are important aids in determining whether a statutory provision is mandatory or directory. 280 N.W.2d 393. (NOTE: "May not" should not be used in a denial, restriction, or limitation, rather "shall not" should be used.)

### **"All".**

The word "all" is commonly understood and usually does not admit of an exception, addition or exclusion. 137 N.W.2d 900.

### **Adopting amended statutes.**

Whether the adopting statute adopts the general law or a specific statute, the rule is that it applies to later amendments or changes unless a contrary intent or inconsistency appears; and this may appear in the general reference statute, adopting statutes or in the adopted statute or manual. 114 N.W.2d 317.

NOTE: Adopting other than Iowa laws. If the general law or specific statute that is adopted is other than Iowa law, the question of unconstitutional delegation of authority arises when subsequent amendments or changes to the adopted law or statute are included at the time of adopting the law or statute. Careful consideration must be given to this situation and the drafter should specify that the law or statute is adopted as in effect on a specific date which should be no later than the date of enactment of the adopting statute.

**Effective upon enactment provision.**

(Code section 3.7(4)) If a legislative Act provides that it is effective upon enactment, it becomes effective as provided in the following examples:

If the governor signs it on March 15, 1988, it becomes effective March 15, 1988.

If the governor fails to sign it and returns it and the general assembly reconsiders and passes it by two-thirds majority on March 17, 1988, it becomes effective March 17, 1988.

If the governor receives it March 14, 1988, (prior to the last three days of the legislative session), and fails to return it by March 18, 1988, it becomes effective March 18, 1988.

**Credit not to be loaned.**

(Article VII, Section 1) (See DIVISION B.) Prohibitions against lending the state's credit refer to becoming surety for the debt of another. 113 N.W.2d 755.

**Limitation--anticipatory revenues.**

(Article VII, Section 2) (See DIVISION B.) Warrants issued in anticipation of revenues collectable during the two- year period of the meeting of the General Assembly, from which the warrants are to be paid, are not a debt within this section. 144 N.W. 908. Revenue bonds issued for the financing of a project the revenues from which will pay off the bonds are not a state debt. 188 N.W.2d 320.

**Consanguinity and affinity.**

(See Appendix III for civil law consanguinity chart.) Degree of kinship is determined by counting upward from one of the persons in question to the nearest common ancestor, and then down to the other person, calling it one degree for each generation in the ascending as well as the descending line; under such a rule, a woman's sister (or half-sister) is related to her by consanguinity in second degree and the sister (or half-sister) is related to woman's husband by affinity in the second degree. 304 N.W.2d 203.

**Binding succeeding general assemblies.**

A general assembly cannot bind succeeding ones. 172 N.W.2d 575.

**General assembly's authority re: Constitution.**

Court is final arbiter of what Iowa Constitution means, but will give respectful consideration to legislature's understanding of constitutional language, especially in the case of a contemporaneous legislative exposition of such language--legislature has

considerable authority to lay down rules for the interpretation of its own statutes. 231 N.W.2d 882 (1975).

## **DIVISION C -- ELEMENTS OF STYLE AND FORM**

### **1. WORD USAGE.**

In bill drafting the more simple the manner of expression, the more understandable the draft. Thus avoiding many words when a few will suffice is a goal one should strive to meet. The use of synonyms, while good form in a literary composition, should be avoided. Once a word has been used within a statute to provide a certain meaning, the same word should be used in all cases to express that meaning; otherwise, a court may give words a different meaning than was intended. As a general rule, courts will give words their ordinary meaning.

As noted in the enumerated rules of statutory construction in Division II, certain words will in most cases suffice to cover a number of situations. Thus the singular incorporates the plural, and the plural incorporates the singular. Words of the masculine or feminine gender include the other gender. However, we avoid using gender words in most cases (section 14.13). The word "child" includes child by adoption and words in the present tense include the future. Other words covering several situations can be found in Chapter 4 of the Code.

Frequently bill drafters when referring to statutes feel compelled to use words such as "as amended" or "as heretofore or hereafter amended" or similar phrases. These words are definitely not needed when referring to a state statute because section 4.3 of the Code provides for the inclusion of subsequent amendments. (See page B-9.) In addition, the courts have almost uniformly held that reference to a statute of the same legislative authority includes its amendments.

Certain words have traditionally been used in the drafting of legislation, which are not commonly used in other areas of writing and which are not usually used in normal conversations. It is not necessary in most cases to use these words since words more common to normal conversation are available. The words "such", "said", "provided that", "prior to", "subsequent to", and the phrase "to the contrary notwithstanding" are examples.

At least one treatise on bill drafting indicates that these words' sole function appears to be to make the statute sound legal, when this should not be the objective of the drafter. The words "the", "however", "before", "after", and "regardless" are words which convey the same thought and are more commonly used.

There are exceptions to most every bill drafting rule and it is not the intent of this guide to promulgate rules to cover every situation. However, the majority of bill drafting projects can be most adequately performed pursuant to the suggestions contained in this guide. The drafter should follow the rules of statutory construction in most cases. However, if the drafter intends to provide for a situation different from that which might be affected by the rules of statutory construction, the drafter should be very specific in the bill draft to make the intention clear.

The following is a list of words suggested for use in bill drafting, which it is hoped will provide more understandable language and aid the reader to better comprehend legislation. These words will suffice in most instances.

### **Usage of words.**

<b><u>Avoid Using</u></b>	<b><u>Use</u></b>
absolutely null and void and void of no effect	void
and/or	Use one or the other, or if any ambiguity exists, use: X or Y or both of them, X or Y or either of them
any or all	either word, not both (use of a simple article, "a", "an", or "the", is often better) (use "any" only when it means "one or more" as in "any of the following"; use "all" when it means "all")
any person, every person, all persons	a person
as applicable	use only when needed so meaning will be clear
as may be necessary	as necessary
as provided in	under, pursuant to
at such time as	when
at the time	when
be and the same is hereby	is
beforementioned	the, that, those



bonds, notes, checks, drafts and other evidences of indebtedness	evidences of indebtedness
chairwoman, chairman	chairperson
constitute and appoint	appoint
current, presently (meaning "at the time of enactment")	use a specific date if possible otherwise on the effective date of the appropriate provision (or "on or after" or "on or before")
during such time as	while
during the course of	during
each and all	either word or an article (a, an - indefinite; the - definite)
each and every	either word
employ (meaning to use)	use
evince	show
feasible	possible
for the duration of	during
for the reason that	because
foresaid, aforementioned	the, that, those
formulate	make
forthwith	immediately
full force and effect	"force" or "effect"
give consideration to	consider
give recognition to	recognize
have knowledge of	know
have need of	need

hereinafter, heretofore, hereinbefore, hereinabove, above, below, following, preceding	These are objectionable when referring to the position of a section, or other statutory provision. If reference is necessary, specify the chapter, section or subsection by number.
he, she, his, her, himself, herself	use nongender word, if reference is to both; usually the antecedent noun
in case of, in case	when, where, if
in cases in which	when, where, if
in order to	to
in the event that	if
is applicable	applies
is defined to mean	means
is authorized to	may
is deemed to be	is--unless it really cannot <u>be</u> , but must be imagined to be
is directed to	shall
is empowered to	may
is entitled to	may
is hereby authorized and it shall be the council's duty to	shall
is hereby authorized to	may
is hereby vested with power and authority and it shall be his duty in carrying out the provisions of this Act to	shall
is required to	shall
it is the director's duty to	shall

it is lawful to	a person may
it is not unlawful to	(means "it is lawful--a person may)
make application	apply
make payment	pay
make provision for	provide for
may not	shall not
means and includes	"means" or "includes" as required--"means" limits, "includes" describes, but may also limit, under statutory construction rules of general/specific or "ejusdem"
necessitate	require
no person shall	a person shall not - avoid starting with the negative
nothing contained in this section does not section shall	this
now	use a definite date
null and void	void
or, in the alternative	or
ordered, adjudged and decreed	adjudged
party	person (unless referring to party to a suit or action)
person, firm, corporation, partnership, or governmental subdivision	person (see definition in section 4.1 - make an exception for any <u>not</u> applicable, such as governmental subdivision)
portion	part
possess	have
preserve	keep

prior to	before
provided (conjunction)	if, but ("provided that" is often ambiguous--is it a condition, or just an addition?)
provided further, provided however, provided that	except, but, however--or start a new sentence
provisions of law	law ("provisions of" is usually meaningless; however, "a provision of" may be useful)
purchase	buy
render (meaning "to give")	give
retain	keep
rules and regulations	rules (if state) regulations (if federal)
said	the, that, those
same	it, individual, person
shall be	is
shall be construed to mean	means
shall have the power to	may
shall mean	means
sole and exclusive	exclusive
subsequent to	after
such	the, a, an
the place of the abode	the abode
under the provisions of	under, pursuant to
unless and until	"unless" or "until" as required
until such time as	until
utilize (meaning to use)	use

whatsoever, whatever	what
whensoever	when, if
wheresoever, wherever	where
whomsoever	(Archaic; improper)
whosoever, whoever	who

### **Use of "and/or".**

The general consensus of opinion in cases in many jurisdictions over the nation is contrary to the use of the expression "and/or". This is true in Iowa. See 229 Iowa 1240 and 93 NW 2d 714. In general the term "and" means to add something to what has already been said; "or" means in the alternative. The word "and" is a conjunctive and the word "or" a disjunctive. Use of the terms together is contradictory. The writer should be able to determine which term is correct. In most cases the word "or" is proper to convey the thought of "one, or the other, or any of them". The word "and" is proper to convey the thought of both, or "all of them". If emphasis is needed the use of terms such as "any of the following", "all of the following", "either of the following", "or both", and similar modes of expression should be sufficient.

The expression "and/or" has been attacked by numerous authorities. One authority notes it is "a device for the encouragement of mental laziness"; another authority states "It is a bastard sired by Indolence (he by Ignorance) out of Dubiety."

The drafter of legislation in Iowa should avoid the use of the expression "and/or".

### **Use of "shall" and "shall be".**

"Shall" is defined in section 4.1 of the Code to impose a duty. To preserve that meaning, it generally should not be used to state a rule of law or a proposition in the future tense. "Shall" and "shall not" should be used to require or prohibit an act. "Shall not" should be used to state a prohibition, rather than "may not". A proposition of law should be stated with the use of the present tense "be" verb rather than "shall be". "Shall be" may be used where a duty is stated in the passive voice, but statutes should generally use the active voice.

For example:

Use "a violation of this provision is a misdemeanor", rather than "a violation of this provision shall be a misdemeanor".

Use "a person who violates" rather than "a person who shall violate".

### **Use of "must" and "may".**

"Must" is defined in section 4.1 of the Code to state a requirement for an inanimate object which cannot be "commanded" and "may" is defined in the same section to confer a power. "Must not" and "may not" should never be used to prohibit an act. "Shall not" should be used instead.

For example:

Use "the board of supervisors shall not levy a tax unless authorized by state law" rather than "the board of supervisors may not or must not levy a tax unless authorized by state law".

### **Use of pronouns.**

A pronoun should be used only if its antecedent is unmistakable, and must be singular or plural in accordance with its antecedent. If a pronoun is used it should be gender neutral; otherwise, repeat its antecedent.

### **Use of modifying phrases.**

Be careful that a phrase cannot be construed to modify something other than what is intended. An example is a delineation of items that includes a phrase which does not modify all of those items. Possible confusion can generally be avoided by moving the phrase within the sentence or by making it into a separate sentence. (see example on page C-14.) Be especially careful of phrases making exceptions.

### **Definitions.**

The use of definitions should be considered when drafting a bill. If the drafter desires a particular word to have a particular meaning other than its usual meaning, a definition is essential. A definition is essential if the term or phrase to be used is not commonly understood or does not have a generally accepted meaning. The length of bills can be reduced or made clearer through the use of definitions. For example, the drafter may wish to refer to facilities offering some type of medical service, having in mind hospitals, nursing homes, mental health institutions, custodial homes, homes for the elderly and other similar facilities. Rather than mentioning each individual facility many times within a bill, it provides a shorter bill draft if "medical facility" is defined to include all of the types of facilities and the draft uses only the words "medical facility". If one of the types of facilities is to be excluded from a particular section of the bill, this can be done by merely stating, for example, "except nursing homes". When the drafter is going to use a term or phrase which is commonly understood but for which there are slight variations in the meanings, the draft can make the term or phrase clearer by defining it. An example of this is "farming". The term "farming" is commonly understood to include

the cultivation of land for agricultural crops, the production of livestock, poultry, eggs, milk, and the grazing of livestock. But does it include the production of timber, forest products, Christmas trees, nursery products, sod, aquaculture, or hydroponics? Although the term "farming" is commonly understood, some may consider the growing of sod and trees on sod farms and tree farms as farming. The drafter should be aware of the possibility of overinclusion or underinclusion by the person carrying out the provisions of the bill, and if there is a reasonable possibility of this, should define the term or phrase.

Definitions are useful to:

1. Limit or extend the meaning of a word, particularly if the word is used in other than its normal sense or has several meanings.
2. Translate technical terms or words of art into common language.
3. Avoid repetition of a phrase or term.

Definitions should not be used when a word has a clear and definite meaning since they are unnecessary and could lead to confusion.

Definitions should generally be alphabetized.

If a definition applies to only one section, it should be in that section. Definitions applicable to various sections or a chapter should be grouped in one section at the beginning of a bill. A definition should not include substantive law. Once a word is defined, the drafter must be careful to use it as defined and not to repeat the definition. Remember that when one word is defined and is used in the definition of a second word, the first word has the meaning given to it when it was defined and the drafter does not need to redefine it as is often done. When a bill draft is revised to change a defined term, the drafter must be especially watchful to change it in every instance.

If a numerical reference to a definition in another section of the Code is added, it is generally preferable to refer only to the Code section, and not to the subsection or paragraph, containing the definition. When all the definitions are alphabetized, they will be easy to find within the section without using subsection numbers.

### **Sentences--subsections.**

Bill sections and sentences should not be lengthy, since long sections and sentences are hard to understand. If a series is needed, the section may be divided into subsections, paragraphs, or subparagraphs. The use of subsections is very helpful in allowing the reader to understand the complete components of the section. Subsections are easier to amend and should be used when controversial legislation is being drafted which may be subject to many amendments.

### **Reference material.**

The drafter must be familiar with the state and federal constitutions. The Constitution of Iowa contains many provisions which must be considered in drafting legislation. When drafting legislation, particularly legislation which will add new material to the Code, the Code should be thoroughly researched for material pertaining to the subject matter of the legislation. A great many conflicts are created when a drafter does not do a thorough job of researching the Code prior to writing a bill draft. Many persons, including lawyers, are surprised at the many diverse subjects contained in the Code and research of the Code should be the first step when drafting legislation.

The statutes of other states, uniform acts, suggested acts, bills previously introduced in Iowa, and model legislation are prime sources of legislation. The Council of State Governments, Advisory Commission on Intergovernmental Relations, Commissioners on Uniform State Laws, and particular occupational groups and associations have developed many statutes which can serve as the basis for legislation in Iowa. Problem areas in Iowa demanding legislation frequently have been problem areas in other states and legislation designed to solve these problems may be available as a starting point. The drafter is cautioned that in using other states' and suggested legislation, changes will probably have to be made in order that the proposed legislation will be adaptable to the state and the Code. The changes may be in form or substance.

### **Drafter as impartial technician.**

Determining the policy and objectives of legislation is the prerogative of the legislator. The drafter's function is to determine the present laws affected, make proper amendments, devise actual statutory language, and place the bill draft in proper form. The drafter shall not express personal ideas but must remain an impartial technician.

Upon the request of a legislator that a bill be drafted which is of doubtful constitutionality, the drafter should inform the legislator of the constitutional problems and, if possible, devise a method of accomplishing the purpose of the bill which is constitutional. If the legislator nevertheless wishes to introduce the bill after the drafter has suggested the constitutional difficulties, the drafter should draft the bill in accordance with the legislator's instructions.

## **2. PARTS OF A BILL.**

### **General.**

A bill consists of three major parts: (1) the title; (2) the enacting clause; and (3) a body of provisions to be enacted. Each part is essential and must be complete. The proper form of the title and enacting clause are defined by law, and the content and length of the body, while subject to certain rules of format, depend upon the purpose to be



accomplished. Samples of the various parts of a bill are contained in the appendix to this bill drafting guide.

### **Explanations.**

House and Senate bills and joint resolutions proposing constitutional amendments must have explanations of their contents, which explanations follow the body of the document. House and Senate rules may require explanations for concurrent and simple resolutions. An explanation of a bill written by a bill drafter must be concise and accurate, explaining exactly what the bill does, without attempting to comment upon its merits or editorializing. It is the task of the legislative sponsor to sell the bill on its merits within the proper committee or on the floor of the legislative chambers and the bill drafter, when requested to write the explanation, shall not make any comments within the explanation as to the merits of the bill. Judgmental words, such as "clarifies", should be avoided. A section is "amended"; we may hope it clarifies, but drafter need not make that judgment in the explanation. Under section 25B.5 of the Code, if the bill or joint resolution contains a state mandate to a political subdivision of the state, the explanation must include that fact. A state mandate requires a political subdivision to establish, expand, or modify its activities in a manner that results in additional local expenditures. The explanation should include the bill's effective date if other than July 1 following enactment and should be placed at the end of the bill. If a new chapter to the Code is created in a bill, the explanation should explain that the new chapter is created. It may also be helpful to explain the creation of new sections to the Code.

### **Fiscal notes.**

Senate and House bills other than appropriation bills where the total effect is stated in dollar amounts are required to have fiscal notes attached if they reasonably could have an annual effect of \$100,000 or a total effect within five years after enactment of \$500,000 or more on the aggregate revenues, expenditures, or fiscal liability of the state or its political subdivisions. In addition, a fiscal note must be prepared if the bill or joint resolution contains a state mandate to a political subdivision. Fiscal notes are to be attached to the bills following the explanations or printed in the daily clip sheet.

### **Sponsorship.**

Each bill introduced must be sponsored by a legislator or several legislators, or a committee of the General Assembly. The sponsorship of the bill must be noted on the title page of the bill as well as the name of the legislative house where the bill is to be introduced. Each bill will receive a number at the time it is introduced. The Governor and state agencies may, however, prefile bills with committees but these are not introduced at the time of filing and receive only study bill numbers.

### **Title page of bill--contents.**

Each bill is required to have a title page which will contain only the name of the house where the bill is to be introduced, the sponsorship, the title of the bill, and the enacting clause. The first section of a bill will commence on page 1.

### **Titles.**

As noted in this guide, the Constitution and statutes of Iowa require that every act shall embrace but one subject, and matters connected with it; which subject shall be expressed in the title. The title of a bill shall contain a brief statement of the purpose of the bill, however all detail matters properly connected with the subject expressed may be omitted from the title.

The above requirements have been liberally construed by the courts. However, care must be taken in writing titles to bills. Generally speaking titles should be broad, while at the same time giving notice of the general subject of the bill. This will allow for the insertion in the bill of provisions which have a natural connection with the subject matter of the bill while at the same time complying with the constitutional and statutory provisions. The title should not be an index or table of contents for the bill.

A title which details the provisions of a bill invites trouble since the unconscious omission of one detail from a specific (or so-called "tight") title may result in the provision being declared void. On the other hand, legislators often request that a specific title be drawn to a bill, hopefully in order to prevent amendments from being offered to the bill which are not germane to the contents of the title even though they may be germane to the subject matter of the bill. When such a request is made the bill drafter should be careful in writing the title.

As previously noted in this guide, it is often a good course of action to note in the title certain provisions that are contained in a bill. Thus a title may contain a general description of the contents of a bill followed by a statement that a bill contains a particular provision. The type of provision that probably deserves the most emphasis is the penalty provision. The courts of Iowa have been strict in holding that penalties must be noted within a title of a bill. Other provisions which should probably be noted are retroactive or long-delayed effective dates, the imposition of taxes, and appropriations.

Although bills designed to amend, revise, codify, or repeal a law must refer in the bill to the numbers of sections or chapters of the Code to be amended or repealed, it is not necessary to refer to the section or chapter numbers in the title. It has been the practice in Iowa to omit these references in the title of the bill. If needed, a reference to the popular name or some other words descriptive of a law may be used, as in: "amending the Iowa administrative procedures Act".

Avoid use of "clarifying", "correcting" and similar judgmental words which may be inaccurate. The title should be objective.

### **Enacting and resolving clauses.**

The Constitution of Iowa requires that every bill contain an enacting clause. The enacting clause in Iowa is: "Be it Enacted by the General Assembly of the State of Iowa:" and failure to include the enacting clause on a bill approved by the legislature voids the law. The enacting clause must be used in joint resolutions which contain an appropriation or otherwise enact law. Otherwise, joint resolutions generally use the style: "Be it Resolved by the General Assembly of the State of Iowa:". House or Senate resolutions use the style: "Be it Resolved by the (House) (Senate):". Concurrent resolutions use: "Be it Resolved by the (Senate) (House of Representative), the (House) (Senate) concurring, that".

### **Body of the bill.**

The body of the bill is divided into sections. Normally a separate section of the bill is used for each section of the Code or session law which is to be amended or each new section of the Code which is to be enacted.

In amending a present section of the Code, the bill section should amend the smallest division possible thus excluding from the bill as much of the section as possible. This may require more than one bill section to amend the same Code section. Where a bill section enacts a new section of the Code, the new section should be kept reasonably short. However, a long new section should not be divided if division of the subject matter into two or more new sections would be confusing. If a new section is unusually long or complex, it should be divided into subsections. Long subsections may be divided into paragraphs and long paragraphs into subparagraphs. The drafter must exercise creativity in renumbering or rearranging to avoid further subdivisions. However, an occasional complex bill such as a tax bill or model or uniform act may require further division into subparagraph subdivisions and subdivision parts. Remember that each level of division within a section must contain two or more subunits; e.g., a subsection cannot contain only paragraph "a" but must also contain a paragraph "b". The sequence for Code sections and the manner of citing them are as follows:

### Name Example

Section 422.5 Subsection 1. Paragraph k. Subparagraph (2) Subparagraph subdivision (d) Subparagraph subdivision part (ii)

A "paragraph" is lettered; however, when dealing with a subsection which contains both lettered and unnumbered (which includes "unlettered") paragraphs, it is acceptable to designate a "lettered paragraph".

Unnumbered paragraphs of sections or of subunits of sections may also be cited or amended, e.g., Section 422.7, unnumbered paragraph 1 or Section 442.7, subsection 12, unnumbered paragraph 3. Care must be taken in designating unnumbered paragraphs. The first paragraph of a subsection which contains more than one paragraph is unnumbered paragraph 1, even though it is preceded by the subsection number. It is better to number or letter each paragraph than to cause confusion by leaving paragraphs unnumbered.

Use short, simple sentences if possible. Long, complex sentences are difficult to write, difficult to understand, and conducive to ambiguity. Sentences should be constructed so that the meaning does not depend on the placement of punctuation. This is a most difficult goal in many cases; however, this should be an objective of the bill drafter. In addition, care needs to be taken when writing a sentence that contains a series of items which has a modifier that applies to one or more of them so that it is clear as to which item or items is being modified.

An example:

". . . interest from notes, bonds, commercial paper, and certificates which are guaranteed by the United States". Is the phrase "which are guaranteed by the United States" intended to modify all those obligations or only certificates? If only the certificates, then "certificates which are guaranteed by the United States" should not be the last item of the list.

Headnotes (sometimes called "catchwords") to sections are not part of the law. Headnotes to sections should be used in drafting long bills because they can be quite helpful in understanding the draft and can serve as an index or guide for the reader. Care should be taken in writing headnotes to sections in order that the subject matter of the section is adequately expressed. The Code Editor may change headnotes as needed to best convey section contents in a few words.

The body of a bill should be set forth in an orderly arrangement with the various sections of the bill in logical sequence. Generally, sections of a bill are arranged according to the numerical sequence of the Code sections being amended. Thus, section 220.1 appears before section 236.1 within a bill draft. Because new sections added to the Code are given section numbers by the drafter, these new sections should be inserted according to the numerical sequence throughout the bill. However, since clarity and understanding is the most important consideration, this guideline should not be followed in every case. If the bulk of the substance of the draft is new sections, and the amendments to the existing Code sections are merely complementary to the new sections, the new sections should probably be arranged first in the bill. The important consideration is to allow the reader (legislator) to be informed of the primary substance of the bill early during a reading of the bill. The drafter should assign Code numbers to new sections, placing them as logically as possible. The Code Editor may need to renumber when placing the sections in the Code, so it should be understood that the new section numbers are tentative.

### **Effective date provisions.**

The standard effective date is July 1 following passage of the Act, forty-five days after approval by the Governor if passage of the Act is prior to July 1 but approval is after July 1, or ninety days following adjournment of the special session during which the Act is passed. These are referred to as the standard effective dates because an effective date provision does not need to be included in the Act for it to be effective on those dates. (See Art. III, section 26 of the Constitution and section 3.7 of the Code.)

If an Act is to be effective on a date different from the standard effective date, or is to have retroactive applicability, an effective or retroactive applicability date provision specifying this date needs to be contained in the Act itself. Although it is lawful to specify the effective or applicability date of an Act in a different Act, this is not recommended and should not be done except in very rare and exceptional cases.

## **DIVISION D -- DRAFTING OF THE BILL AND AMENDMENTS -FORM AND METHOD**

### **1. DRAFTING OF THE BILL.**

#### **A. AMENDMENTS TO EXISTING LAW**

##### **Form of amendments to existing law.**

The form for amending existing sections of the Code, session laws, or certain court rules is to type the text of the section with the words to be stricken indicated by a line through the words, and the words to be added inserted in the proper place in the text of the section with lines underneath the words.

If punctuation is to be deleted, a strike-through line should be placed through or above the punctuation. Thus a period would be struck as follows: to the director of management-

**NOTE: Code Supplement.** Following the 1983 Session and every odd-numbered year since, a Code Supplement has been published containing each section of the Iowa Code, in its entirety, which was amended during that session, and all new sections added to the Iowa Code during that session. In amending a section printed in the Code Supplement, the drafter must cite to the Code Supplement. Thus, reading through this division of the bill drafting guide, amending clauses referring to "Code 20\_\_" also are intended to include "Code Supplement 20\_\_".

### **Basic mechanics for building a first draft.**

When preparing a first draft of amendments to existing law, a good procedure which saves time for typists and proofreaders is to make a photocopy of the statute to be amended, tape it on another page of paper, and indicate the needed changes on that copy or by inserts. If the Code data base is current, a printout of the desired section, subsection, paragraph, etc., can be obtained from the computer system. It is best for the drafter not to retype the statute or use a copy retyped by others (unless it has already been typed in another bill draft and is on the computer) because of the chance of errors and because it is then more difficult to proof the text against the Code. If the statute has previously been typed in another draft and is available on the computer, the drafter should indicate the LSB number, including the number of the General Assembly if different from the present one, the library number and the page number of the draft which is being used. The Legislative Services Agency, General Assembly, and library numbers are found at the bottom of the last page on the right-hand side. If material from another year's draft is to be used (as often happens in the second year of a General Assembly) be sure to confirm that the section has not been amended in the meantime. The text processors and proofers assume that your rough draft is correct and an error can be totally missed and even be printed in the Code if incorrect basic material is used. If extensive material is to be added, it should be indicated on a separate insert and the point of insert indicated on the copy. A short insert can generally be written in the margin next to the copy. Inserted new material to the Code must be underlined. Material to be stricken from the copy should be indicated by a penciled line through the material which is distinctly drawn but light enough to permit the stricken material to be read by the typists and proofreaders. When material from other states' statutes or other sources is to be incorporated into a draft, a photostatic copy of the source material should be placed in the bill draft file for possible later reference. When amending existing statutes the drafter should generally remove excess and obsolete language and should correct word usage in accordance with this guide.

The Code section to be amended must be cited by number, for instance: Section 3.2, Code 20\_\_ (or Code Supplement 20\_\_), is amended to read as follows:

### **Citations in text.**

When citing to the Iowa administrative rules reference to the Iowa Administrative Code must be included. Other than in the lead-in when citing to a chapter or section of the Iowa Code, inclusion of the phrase "of the Code" or "of the Iowa Code" is not needed.

### **Examples:**

701 Iowa administrative code, chapter 5 (if cite is to chapter only). 701 Iowa administrative code, rule 5.14, subrule 4, paragraph b. 701 Iowa administrative code, rule 5.14, unnumbered paragraph 1.

If a shorter citation form is appropriate, use 701 I.A.C., rule 5.14(4)(b). To cite to the Iowa administrative bulletin, for an item published but not yet adopted, use "item 2 in

ARC 8673, appearing in Iowa administrative bulletin 23 (May 4, 1988)"; or "appearing in I.A.B. 23 (May 4, 1988)".

Federal citations, and others, should be in accordance with "A Uniform System of Citation, Thirteenth Edition" published by The Harvard Law Review Association, except that a publication date in parentheses following the citation should generally not be used as it may appear to be a limitation which is not intended. Unless a more specific citation is needed, it is also acceptable to cite a federal law by its popular name, as "federal Social Security Act". The drafter should double-check citations to federal law and citations other than those to the Iowa Code, since it is not practical for the reviewer or proofreaders to find these and check their accuracy.

The most precise citation is generally best. Thus, a reference in text to chapter 17A is probably more helpful to the reader than a reference to "The Iowa Administrative Procedure Act". (Note: See Code section 17A.23 for specific requirement to refer to Code chapter 17A by name.)

References to "this Act" must be used with care. In case of a reference to "the effective date of this Act" the Code Editor can insert the appropriate date. However, reference to "the provisions of this Act" may be too vague, particularly if the Act contains amendments to existing law. If the reference is to an existing Code section amended within the same bill, or to a new section to which the drafter has assigned a number, the drafter may refer to the Code section number. If enacting a new chapter or division it is acceptable to use "this chapter" or "this division". Do not use "this Act" if only part of the Act is the new chapter; rather use "Sections \_\_\_ through \_\_\_ of this Act".

Each regular session of the General Assembly shall be designated by the year in which it convenes and the words "Iowa Acts". A special session of the General Assembly shall be designated as an extraordinary session in the particular year in which the General Assembly convenes. The 1988 session laws, for example, should be cited as "1988 Iowa Acts, chapter (or file no.) \_\_\_\_\_, section \_\_\_\_\_" (inserting the appropriate numbers). The 1987 session laws for the two special sessions should be cited as "1987 Iowa Acts, chapter (or file no.) \_\_\_\_\_, section \_\_\_\_\_ (1st (or 2nd) Extra Session)".

### **Striking a chapter.**

If an entire chapter is to be deleted from the Code, it should be repealed, even if the bill contains new material to be inserted in lieu of the deleted chapter.

### **Striking and rewriting all of a section.**

If a section of existing law is substantially amended it may be the better course of action to strike the whole section and write in the new language. In this regard the amending clause is quite important because it tells the reader exactly what is being done. Hence if section 12.14 of the Code is to be substantially rewritten and would result in a mass of strike-throughs and underlines, the following form should be employed:

**Example:**

1 Section 1. Section 12.14, Code 20\_\_, is amended by striking  
2 the section and inserting in lieu thereof the following:  
3 12.14 STATEMENT ITEMIZED. [Insert the new language without  
4 underlines.]

This form will require the reader to refer to the Code in order to determine the old law, and for this reason is not as advantageous as the use of the strike-through and underline method. However, in the case of extremely long sections being replaced by short sections or completely revised sections, this style does have advantages.

**NOTE:** If the section is to be deleted and not replaced then it should be **repealed**.

**Striking whole subsection and replacing it.**

If a subsection of a section is to be substantially amended, it may be the better course of action to completely strike the subsection and rewrite it. In this regard the amending clause is important because it tells the reader exactly what is being done. Hence if subsection 30 of section 321.1 is to be substantially rewritten and results in a mass of strike-throughs and underlines, the following form may be used:

**Example:**

1 Section 1. Section 321.1, subsection 30, Code 19\_, is  
2 amended by striking the subsection and inserting in lieu thereof  
3 the following:  
4 30. [Insert the new language without underlines.]

This form may also be used when rewriting lettered paragraphs and numbered subparagraphs when it is determined that it is necessary to rewrite the statutory language rather than use the strike-throughs and underlines.

**Striking whole subsection without replacing it.**

If a subsection is to be deleted from a section without replacing it, a procedure similar to a repeal but actually an amendment to the section, the following form should be used:

**Example:**

1 Section 1. Section 321.1, subsection 30, Code 19\_, is  
2 amended by striking the subsection.

The same form may be used when striking paragraphs and subparagraphs, etc. without replacing them.



### **Amending subsections, paragraphs, subparagraphs, subparagraph subdivisions, and subparagraph subdivision parts of sections that are numbered or lettered.**

Since many sections in the Code of Iowa are extremely long, amendments may be made to parts of sections. This will not be difficult in the case of those sections which have numbered or lettered subsections, paragraphs, subparagraphs, subparagraph subdivisions, and subparagraph subdivision parts. Several subsections or consecutive parts of sections to be amended may be included in one amendatory section, but inclusion of several parts which are not consecutive may cause confusion and should be avoided unless the parts are numbered subsections. Normally, very few parts of sections are designated below the level of subparagraph. (See page C-13 for proper cite and designation of parts of a section.)

#### **Examples:**

1 Section 1. Section 262.39, subsection 3, Code 19\_, is  
2 amended to read as follows:

1 Section 1. Section 262.39, subsections 1 and 3, Code 20\_\_\_,  
2 are amended to read as follows:

1 Section 1. Section 275.8, subsection 3, paragraph c, Code  
2 19\_, is amended to read as follows:

1 Section 1. Section 511.8, subsection 6, paragraph a, sub  
2 paragraph (1), Code 19\_, is amended to read as follows:

1 Section 1. Section 279.7, unnumbered paragraph 2, Code 19\_,  
2 is amended to read as follows:

#### **Unnumbered paragraphs.**

Since the Code of Iowa contains many lengthy sections and since in many cases only small amendments will be made to lengthy sections, it is proper to amend only a paragraph of a section. In many cases the paragraphs are not numbered or lettered in the Code. Because of computer application, it will be necessary to give unnumbered paragraphs a number. Care must be exercised in drafting the amending clause in order that proper notice may be given to the reader as to that provision which is to be amended. (See the last lead-in from the previous examples.)

While grammatically incorrect, there are times when less than a complete paragraph will be amended. It will be designated as an "unnumbered paragraph" but grammatically it may be either a clause or a phrase. An example would be an introductory clause or phrase to a series of subsections or other numbered or lettered parts of a section. For example "As used in this chapter unless the context clearly requires otherwise:" is not a paragraph but rather than listing the material that follows this clause it can be referred to when amending it as an "unnumbered paragraph".

Note that if a subsection or paragraph has more than one actual paragraph, the first paragraph is called "unnumbered paragraph 1", even though it is actually preceded by a number (or letter).

### **Dividing unnumbered paragraphs.**

Many of the paragraphs in the Iowa Code are long and contain numerous subject matters. This condition is often the result of amendments to the paragraphs which did not consider the construction of the paragraphs but only the substance of the amendment being added. In order to provide for a more understandable and grammatically correct paragraph structure, the drafter may desire to divide the long paragraph containing more than one subject matter into two or more paragraphs without making a substantive change while doing so. This can be done while drafting a substantive amendment to the section containing the paragraph even though the act of dividing the paragraph is not substantive. The proper form for dividing a paragraph requires that at the point of the division the drafter indent and precede the new paragraph with the words "PARAGRAPH DIVIDED." This will indicate that no substantive change is being made at that point but that the paragraph is being divided for greater clarity. This same procedure can be followed for long sections and subsections. Occasionally the drafter may assign subsection numbers or paragraph letters when dividing these long sections or subsections, in which case the words "PARAGRAPH DIVIDED." are not used.

### **Example:**

1 Section 1. Section 123.22, unnumbered paragraph 1, Code  
2 19\_, is amended to read as follows:  
3 The department ~~shall have~~ has the sole ~~and exclusive~~ right  
4 of importation, into the state, of all forms of alcoholic li-  
5 quor, except as otherwise provided in this chapter, and ~~no a~~  
6 person shall ~~so~~ not import ~~any such~~ alcoholic liquor, except  
7 that an individual of legal age may import and have in his  
8 possession an amount of alcoholic liquor not exceeding ~~one~~  
9 ~~quart~~ two quarts or, in the case of alcoholic liquor personally  
10 obtained outside the United States, one gallon for personal  
11 consumption only in a private home or other private accommo-  
12 tion.  
13 PARAGRAPH DIVIDED. ~~No~~ A distillery shall not sell ~~any~~ alco-  
14 holic liquor within the state to any person ~~but only to~~ other  
15 than the department, except as otherwise provided in this chap-  
16 ter. It is the intent of this section to vest in the depart-  
17 ment exclusive control within the state both as purchaser and  
18 vendor of all alcoholic liquor sold by distilleries within the  
19 state or imported ~~therein~~, except beer, and except as otherwise  
20 provided in this chapter.

**NOTE:** The above example contains both a substantive change on lines 8 and 9 and style changes on lines 3, 5, 6, 7, 13, 14, 15, and 19. The style changes should be made so that we are not perpetuating a poor style--but be especially careful not to make a substantive change--especially watch negatives.

### **Amending a section previously amended at the same session.**

If a section has been amended previously by the same session of the General Assembly, the amending clause to subsequent amendments should indicate this fact, and the section should be set out in its recently amended form but without strike-throughs and underlines from the previous amendment. For instance, a section might be amended in one session by the enactment of Senate File 820 as follows:

1 Sec. 25. Section 135.2, Code 19\_, is amended to read as  
2 follows:  
3 135.2 APPOINTMENT. The governor shall, ~~within sixty days~~  
4 ~~after the convening of the general assembly in 1925, and every~~  
5 ~~four years thereafter,~~ appoint to a term of four years, with  
6 ~~the approval of two-thirds of the members of~~ subject to confir-  
7 mation by the senate, a commissioner of public health who shall  
8 be qualified in the general field of health administration.  
9 Vacancies shall be filled for the unexpired term in the same  
10 manner as regular appointments are made.

The same section might be subsequently amended in the same session as follows:

1 Sec. 13. Section 135.2, Code 19\_, as amended by 19  
2 Iowa Acts, Senate File 820, section 25, is amended to read as  
3 follows:  
4 135.2 APPOINTMENT. The governor shall appoint to a term of  
5 four years commencing and ending as provided by law, subject to  
6 confirmation by the senate, a commissioner of public health who  
7 ~~shall be~~ is qualified in the general field of health adminis-  
8 tration. Vacancies shall be filled for the unexpired term in  
9 the same manner as regular appointments are made.

**NOTE:** The second amendment to section 135.2 does not include the strike-throughs and underscores that were in the first amendment. Section 135.2 is presented as it would appear in the Code after the first amendment was codified.

### **Amending session laws.**

In previous years, amending session laws often was complicated because sections of session laws had no Iowa Code numbers and, in addition, they already contained strike-throughs and underlines. References to sections in session laws sometimes

were to the section numbers of the chapters of the session laws and at other times to sections of the Code as amended by chapters and sections of session laws.

Currently, amending session laws should only be necessary when it is necessary to amend a temporary law. Permanent sections of the session laws will be codified in either the Code Supplement or the Code of Iowa. The Code Supplement is published between the first and second sessions of the General Assembly and contains the sections amended during the first session. The section will be printed in the Code Supplement without the strike-throughs and underscores so it appears in the Code Supplement in the same form that it will appear in the next Code of Iowa. New sections are codified and given permanent section numbers in the Code Supplement.

**Example:**

1 Sec. 3. 19\_ Iowa Acts, chapter 1216, section 11, is amended  
2 to read as follows:  
3 SEC. 11. Notwithstanding section 654.15, subsection 2, the  
4 declaration of economic emergency made by the governor on Octo-  
5 ber 1, 1985, is in effect until March 30, ~~1987~~ 1988.

**NOTE:** When setting out the section of a session law chapter to be amended, the designation of the section is capitalized as done on line 3.

**Amending headnotes.**

The headnotes are not part of the law, except in the Uniform Commercial Code (Chapter 554), but courts sometimes take notice of them to determine legislative intent. Hence, when an entire section is being amended, the headnote should be included. If the headnote is included and an amendment has the effect of making the headnote misleading or inaccurate, the headnote should be amended in the same manner as the text of the section. For instance, if a section of law pertaining to the licensing of dogs was changed to provide for the licensing of cats, the headnote should be changed as follows:

**Example:**

1 632.49 LICENSING OF DOGS CATS.

If the section was being amended to add cats to the licensing requirement the heading would be changed as follows:

1 632.49 LICENSING OF DOGS AND CATS.

**B. NEW LAW**

**Adding new law.**

Adding new chapters, sections, subsections, paragraphs, subparagraphs, etc. and unnumbered paragraphs to the Code or sections of the Code will not require the use of underlines and strike-throughs since no change to existing words of the Code is being made. However, in order to avoid confusion as to whether an existing section of the Code or session laws is being amended, or a new section of law is being proposed to the Code of Iowa, the words "NEW SECTION." should be inserted after the bill section number when no amending clause is used or before the text of the section when an amending clause is used. Note that the words "NEW SECTION." are both capitalized and underlined and a period follows the word "SECTION.". In drafting a new section, the drafter should assign the new section a section number and headnote.

If a group of new sections are intended to be added as a new division of a chapter, a section should be drafted stating that "Sections \_\_\_ through \_\_\_ of this Act are enacted as a new division of chapter \_\_\_." We do not use "NEW DIVISION." Since state departments often have "divisions" (also bills and amendments may have "divisions"), we now encourage the labeling of parts of chapters as "subchapters" rather than "divisions".

If a new subsection, paragraph, subparagraph, etc. or unnumbered paragraph is being added, the proper designation before the text and number or letter of the amendment will be "NEW SUBSECTION.", "NEW PARAGRAPH.", "NEW SUBPARAGRAPH.", etc. or "NEW UNNUMBERED PARAGRAPH." as the case may be. To avoid confusion when a section includes both lettered and unnumbered paragraphs, the new material may also be designated as a "NEW LETTERED PARAGRAPH." Following such designation the new law need merely be stated in full without using underlines to denote that the material is new. The only time underlines and strike-throughs are required is when an existing provision of law is being amended.

If a Code section includes subsections or lettered paragraphs, a drafter should not add a "NEW UNNUMBERED PARAGRAPH." to the section unless its meaning is very clear. There are existing Code sections containing subsections, lettered paragraphs, and unnumbered paragraphs and it is sometimes unclear whether an unnumbered paragraph is intended to stand alone or to be a paragraph within a subsection or lettered paragraph. (See section 455B.173, 455B.174, or 455B.183 for a mind-boggling example.) The drafter can clarify this by designating the new language as a lettered paragraph or subparagraph. (See page C-13 for proper cite and designation of parts of a section.)

Occasionally, when it is especially helpful to show surrounding textual material, to renumber subsections or paragraphs, or to include cross-references to the new material, a new subsection or other part may be added by underlining the entire new part and showing its placement in the section or subsection. When this is done the new language is not preceded by "NEW SUBSECTION." etc., since the reader can tell it is new language by the underlines.

The words "NEW SECTION." should not be used when writing temporary sections of law or sections which will not be incorporated into the Code of Iowa. Effective date sections, appropriation sections and similar temporary provisions will not carry the designation "NEW SECTION." since they are not new sections to the Code of Iowa but pertain primarily to implementation of the Act involved. Again, the amending clause, if used, is important.

The drafter should propose tentative numbers for a new chapter or section of the Code in order to indicate its anticipated placement in the Code. Since statutes must be read in context with existing provisions of the law, it is often helpful to show where in the Code the chapter or section may best be placed. It is frequently necessary to read a new proposed section in light of existing definitions and procedures. However, any assignment of a number by a drafter is subject to change or reassignment by the Code Editor, since the Code Editor has that authority by law subject to Legislative Council approval.

If it is contemplated that a new section would take a number following an existing number which is not the last number in a chapter, the drafter should indicate the placement where it is anticipated the new section will be inserted; e.g., if the placement is between two consecutively numbered sections, such as 321.24 and 321.25, the drafter may assign a tentative number using a capital letter (A, B, etc.) after the preceding existing section number.

**Example:**

1 Sec. 3. NEW SECTION. 321.24A OPERATOR'S LICENSE REVOCATION.  
2  
3 [Insert the new language without underlines.]

**NOTE:** The form "Chapter \_\_\_\_, Code 20\_\_, is amended by adding the following new section(s):" is not used now--rather new section numbers are assigned.

**New subsections, paragraphs, subparagraphs, and unnumbered paragraphs.**

The addition of new subsections, paragraphs, subparagraphs, or unnumbered paragraphs, where existing law is not included, does not differ greatly from adding new sections to a chapter. However, care must be taken to specifically identify that to which new material is being added.

**Example:**

1 Sec. 3. Section 232.18, Code 19\_, is amended by adding the  
2 following new subsection:  
3 NEW SUBSECTION. 12. [Insert the new language without under  
4 lines.]

Note that a number is assigned to this subsection.

This method is preferable, and is especially useful where a cross-reference is needed. It should be remembered that other bills may also be creating new subsections of a section. Several bills could be assigned the same number, the result being that the Code Editor would have to change and rearrange the subsections. If several subsections or other divisions are added to a part of the Code, the Code Editor will assign proper numbers or letters.

When adding a new paragraph, it is necessary to state if the paragraph is to be unnumbered by designating the new material as a "NEW UNNUMBERED PARAGRAPH." Otherwise a new paragraph should be designated as a "NEW PARAGRAPH." and assigned a lowercase letter. Occasionally "NEW LETTERED PARAGRAPH." may be used.

### **Alternative bill drafting style--exception to normal style.**

Certain bill drafts, because of length and the nature of the amendments being made, may require the use of a bill drafting style used in the General Assembly prior to 1971.

Governmental reorganization bills in particular, which by their nature are quite long, may call for the use of two bill drafting formats. Governmental reorganization bills frequently require new provisions of law which establish a new government agency or reassign duties from existing agencies. Generally the legislation takes the form of providing for a number of sections in the early part of the bill which comprise the substance of the legislation. Subsequent sections, and there may be hundreds of them, provide for corresponding amendments to the Code and usually involve a simple amendment such as a name change.

In those instances where there are a great many changes of the same nature, it may be possible to cite in one section all sections of the Code to be changed and the nature of the change.

### **Example:**

1 Section 100.  
2 Sections 62.3, 62.4, 82.1, and 82.2, Code 19\_, are amended  
3 by striking from the sections the words "legislative research  
4 bureau" and inserting in lieu thereof the words "legislative  
5 service bureau".

**NOTE:** It should be noted that use of the alternative bill drafting method discussed is subject to the prior approval of the Secretary of the Senate for Senate bills, or the Chief Clerk of the House for House bills.

### **Use of headnotes when adding new law.**

Headnotes are to be provided when adding a new section to the Code. Drafters do not always like to use headnotes in a draft because amendments to the sections might destroy the accuracy of the headnote, particularly when through oversight the headnote is not amended. If a headnote is inaccurate, the Code Editor can make the proper change when publishing the Code. Headnotes should be included because they serve as an index to the bill and can be amended as easily as the bill itself. It is worth noting that headnotes are provided for sections and only rarely for subsections and other subunits of a section.

Headnotes should be brief but sufficient to give notice of the content of the section. Reference to the Code of Iowa for examples is suggested. An example of instances where headnotes are useful would be a major tax bill. Tax legislation usually contains certain sections of prime interest to the legislator. Thus within a major tax bill a legislator would probably first desire to review sections pertaining to definitions, the tax imposed, the rates, and the exemptions. The legislator would look for sections with the following type of headnotes:

DEFINITIONS RATE OF TAX

TAX IMPOSED EXEMPTIONS

Other sections would probably pertain to administration of the tax, which would be of secondary importance to quickly learning or determining the essence of the proposal.

## **C. APPROPRIATIONS PROVISIONS**

### **Making an appropriation.**

There are two types of appropriation provisions: a standing limited or unlimited appropriation and a fiscal year appropriation. The standing appropriation provision is so called because it provides for an appropriation for each fiscal year without the need for action of subsequent general assemblies. These provisions are generally codified and provide for a specific dollar amount to be appropriated (standing limited, e.g., section 426.1) or for an amount necessary to implement the purpose of the legislation (standing unlimited, e.g., section 425.1).

**NOTE:** The Iowa supreme court has recently defined an additional type of standing appropriation in relationship to the Governor's constitutional authority to veto appropriation items. In the case (Junkins v. Branstad, No. 297/88-1791), the court concluded that the allocation of moneys, from the state general fund or from a revenue-producing provision of a legislative enactment, into a separate and distinct fund that the state can no longer utilize for other purposes absent subsequent legislation, is an appropriation. More simply stated, the court held that the setting aside of state revenues into a separate fund for a specific use is an appropriation. The court also set out a test for determining if a bill is an appropriation bill subject to the governor's item veto authority. The court adopted the test of whether or not the bill contains an



appropriation which could significantly affect the Governor's budgeting responsibility. If the test is met, the court stated that the Governor can properly exercise the item veto as to the appropriation of money.

When drafting an appropriation provision that is to be codified, the drafter must state the appropriation amount in words. An appropriation provision in budget bills, whether a line item or contained in a paragraph, which will not be codified shall state the dollar amount in numerals. In addition, if the appropriation provision in a budget bill lists full-time equivalent positions (FTEs), these are to be expressed in numerals.

The appropriation provision should tell the reader that an appropriation is to be made from a specific fund to a named entity for the identified fiscal year(s) of a certain amount for specific purposes.

**Examples:**

1 Section 1.

2 There is appropriated from the general fund of the state to  
3 the Iowa state civil rights commission for the fiscal year be-  
4 ginning July 1, 1989, and ending June 30, 1990, the following  
5 amount, or so much thereof as is necessary, to be used for the  
6 purposes designated:

7 For salaries, support, maintenance, miscellaneous purposes,  
8 and for not more than the following full-time equivalent posi-  
9 tions:

10 ..... \$ 400,000

11 ..... FTEs 27.5

1 Section 1. NEW SECTION. 425A.1 RENTAL REIMBURSEMENT FUND  
2 -APPROPRIATION.

3 There is created in the office of the treasurer of state a  
4 rental reimbursement fund. There is appropriated annually from  
5 the general fund of the state to the rental reimbursement fund  
6 thirty million dollars, or so much thereof as is necessary, to  
7 carry out the purposes of this chapter.

1 Section 1. NEW SECTION. 425B.1 FUND CREATED -APPROPRIA-  
2 TION.

3 The extraordinary property tax credit and reimbursement fund  
4 is created. There is appropriated annually from the general fund  
5 of the state to the extraordinary property tax credit and reim-  
6 bursement fund an amount sufficient to implement this chapter.

**NOTE:** The first example is a line item from a budget bill and hence the dollar amount and FTEs are expressed in numerals. The second example is a standing limited

appropriation that is to be codified; thus the dollar amount is written in letters. The third example is a standing unlimited appropriation.

### **Reversion.**

Section 8.33 provides that ". . . all unencumbered or unobligated balances of appropriations made for a fiscal term revert to the state treasury . . . on August 31." Often a bill's sponsor may want the appropriation to continue to be available for expenditure beyond the end of the fiscal term of the appropriation. The drafter should not simply say that, notwithstanding section 8.33, the unencumbered or unobligated funds shall not revert (or shall not revert on August 31). Rather, the drafter should make clear that the unused funds are not to revert but are to be available for the next fiscal year. Assume the sponsor wants the moneys appropriated to the Iowa state civil rights commission not to revert but be available for the next fiscal year. The drafter should use the following language:

### **Example:**

1 Sec. 2.  
2 Notwithstanding section 8.33, the moneys appropriated in sec-  
3 tion 1 of this Act that remain unencumbered and unobligated on  
4 June 30, 1990, shall not revert to the general fund but shall  
5 remain available for expenditure for the purposes designated  
6 during the fiscal year beginning July 1, 1990.

### **Reversion for capital projects.**

Capital projects are most often made for a four-year period and the following reversion language should generally be used:

### **Example:**

1 Unobligated or unencumbered funds appropriated by this sec-  
2 tion for the fiscal year beginning July 1, 20\_\_, and ending June  
3 30, 20\_\_, remaining on June 30, 20\_\_, shall revert to the gen-  
4 eral fund of the state on September 30, 20\_\_. However, if the  
5 projects for which the funds are appropriated are completed  
6 prior to June 30, 20\_\_, the remaining unobligated or unencum-  
7 bered funds shall revert to the general fund of the state on  
8 August 31 following the end of the fiscal year in which the  
9 projects are completed.

It is best that a reversion or nonreversion provision be placed in the same section or subsection, etc., in which the appropriation to which it applies is located.

## **D. EFFECTIVE DATE OF ACTS**

### **Constitutional and Statutory Provisions.**

Section 26 of Article III of the Constitution reads as follows:

TIME LAWS TO TAKE EFFECT. SEC. 26. An act of the general assembly passed at a regular session of a general assembly shall take effect on July 1 following its passage unless a different effective date is stated in an act of the general assembly. An act passed at a special session of a general assembly shall take effect ninety days after adjournment of the special session unless a different effective date is stated in an act of the general assembly. The general assembly may establish by law a procedure for giving notice of the contents of acts of immediate importance which become law.

This provision means that July 1 following a bill's passage by the General Assembly is the earliest an Act can become effective unless an earlier date is provided. If a date is specified in an Act, or by a general statute, and that date occurs after the July 1 which follows passage, the date specified in the Act is the effective date of the Act.

The General Assembly, in order to implement Section 26 of Article III of the Constitution, has enacted section 3.7 of the Code which reads as follows:

### **3.7 Effective dates of Acts and resolutions.**

1. All Acts and resolutions of a public nature passed at regular sessions of the general assembly shall take effect on the first day of July following their passage, unless some other specified time is provided in an Act or resolution.
2. All Acts and resolutions of a public nature which are passed prior to July 1 at a regular session of the general assembly and which are approved by the governor on or after July 1, shall take effect forty-five days after approval. However, this subsection shall not apply to Acts provided for in section 3.12 or Acts and resolutions which specify when they take effect.
3. All Acts and resolutions passed at a special session of the general assembly shall take effect ninety days after adjournment of the special session unless a different effective day is stated in an Act or resolution.
4. An Act which is effective upon enactment is effective upon the date of signature by the governor; or if the governor fails to sign it and returns it with objections, upon the date of passage by the general assembly after reconsideration as provided in article III, section 16 of the Constitution of the State of Iowa; or if the governor fails to sign or return an Act submitted during session, but prior to the last three days of a session, on the fourth day after it is presented to the governor for the governor's approval. An Act which has an effective date which is dependent upon the time of enactment shall have the time of enactment determined by the standards of this subsection.

5. A concurrent or joint resolution which is effective upon enactment is effective upon the date of final passage by both chambers of the general assembly, except that such a concurrent or joint resolution requiring the approval of the governor under section 262A.4 or otherwise requiring the approval of the governor is effective upon the date of such approval. A resolution which is effective upon enactment is effective upon the date of passage. A concurrent or joint resolution or resolution which has an effective date which is dependent upon the time of enactment shall have the time of enactment determined by the standards of this subsection.

6. Unless retroactive effectiveness is specifically provided for in an Act or resolution, an Act or resolution which is enacted after an effective date provided in the Act or resolution shall take effect upon the date of enactment.

7. Proposed legalizing Acts shall be published prior to passage as provided in chapter 585.

8. An Act or resolution under this section is also subject to the applicable provisions of sections 16 and 17 of article III of the Constitution of the State of Iowa.

### **Drafting effective date provisions.**

It is not necessary to draft an effective date provision if the Act is to take effect on July 1 following passage. If a different effective date is desired, the Act must contain an effective date clause. Sometimes an explanatory statement, such as the tax year for which a change in tax law is first effective, is needed. The effective date section should be at the end of the bill, and an unusual effective date should be mentioned in the bill's explanation. The title of the bill should also refer to the fact that the bill contains a special effective date provision; e.g., "and providing an effective date". If the bill is intended to have retroactive applicability (which is not dependent upon whether a special effective date provision is included), the title should include the words "and providing a retroactive applicability date".

The following are effective date clauses to be used depending upon the purpose of the bill's sponsor.

### **Examples:**

- 1 Sec. \_.
- 2 This Act, being deemed of immediate importance, takes effect
- 3 upon enactment.

This type of effective date clause provides for emergency effectiveness and provides that the bill takes effect upon passage by the general assembly and signature of the governor.

- 1 Sec. \_.

2 This Act, being deemed of immediate importance, takes effect  
3 ten days after the date of enactment.

This type of effective date clause provides for emergency effectiveness in cases where a period of time is needed for notice or implementation prior to effectiveness. The period of time may be varied to suit the circumstances. Another situation which is not uncommon is to provide for its taking effect on the first day of the month following the month in which the Act is enacted.

1 Sec. \_.  
2 This Act takes effect on \_\_\_\_\_.

This type of effective date provision is for situations where it is desirable to specify an exact date. It is normally used where a delayed effective date is necessary. Dates which occur during the session should be used with caution since it is impossible to predict exactly when a bill will be passed or approved.

### **Drafting retroactive applicability provisions.**

An abnormal effective date should not be used to establish retroactive applicability. Rather, use a separate applicability provision to specify that portions of the bill are retroactively applicable and state to whom or what the portions of the bill apply.

### **Examples:**

1 Sec. \_.  
2 The amendments in this Act to subsections 1 and 5 through 9  
3 of section 554.9307 are retroactively applicable to security in-  
4 terests granted on or after December 23, 1986.

1 Sec. \_.  
2 Sections 2 and 3 of this Act are retroactively applicable to  
3 January 1, 1987, for property tax credit claims and special as  
4 sessment claims filed or on file on or after January 1, 1987.  
5 Section 2 is applicable to rent reimbursement claims filed on or  
6 after January 1, 1988.

1 Sec. \_.  
2 This Act applies retroactively to January 1, 1988.

In cases of retroactive applicability, the fact should be mentioned in the title and explanation of the bill. In some cases, there may be a need for an abnormal effective date and retroactive applicability. In those cases, the language on retroactive

applicability should come before the language on the abnormal effective date in both the body of the bill and in the title.

## **E. REPEALS**

### **General.**

When an entire Act or section is abrogated and no new section is added to replace it, legislatures label the Act accomplishing this result a repeal. When a provision is withdrawn from a section, the legislatures generally call the Act an amendment, particularly when a provision is added to replace the one withdrawn. The distinction between repeals and amendments is sometimes subtle.

It has been a frequent practice in Iowa to provide for the repeal of a section and enactment of new language to take the place of the section being repealed. Based upon the distinction between a repeal and an amendment as noted in the preceding paragraph, the procedure results in an amendment rather than a repeal. Therefore, this manual does not provide for the clause "Section \_\_, Code 19\_, is repealed and the following enacted in lieu thereof:". Instead it provides for the clause "Section \_\_, Code 19\_, is amended by by striking the section and inserting in lieu thereof the following:".

### **Express and implied repeals.**

According to legal authorities there are only two types of repeals: express and implied repeals. An express repeal generally identifies the provision of law to be repealed, leaving no uncertainty as to whether the statutes or parts of statutes designated have been repealed.

### **Example:**

- 1 Section 1.
- 2 Section 320.20, Code 20\_\_\_, is repealed.

The above example is the proper method for repealing a section (entire chapters may also be repealed in the same manner) and any other method should be avoided. Repeals should be placed at the end of the bill, preceding only the effective date section and other temporary sections such as those containing transition provisions.

When the drafter is working with a Code Supplement and the Code of Iowa and it is necessary to make repeals from both documents, it is preferred and helpful in the Code editing process and also helpful to the person reading the bill to place two repeal provisions in the bill. The first repeal section should repeal the sections in the Code of Iowa. The second repeal section should repeal the necessary sections from the Code Supplement. A section from the Code Supplement to be repealed is not to be listed in the first repeal section because it is not necessary to repeal a section from the Code that is repealed from the Code Supplement.

**NOTE:** Although the effect is the same, we do not "repeal" parts of sections, but rather we "strike" them. These strikes are placed in the regular order within the bill and not at the end of the bill as repealers are.

**Example:**

1 Sec. \_\_.  
2 Section 422.9, subsection 1, Code 20\_\_, is amended by strik-  
3 ing the subsection.

Because in the course of enacting legislation in accord with the demands of society, it is only natural that subsequent enactments should be declaratory of the intent to repeal pre-existing laws without mention or reference to such prior laws, a repeal may arise by necessary implication from the enactment of a subsequent law. The extent of the repeal of the prior law by a subsequent enactment poses the problem of implied repeals. Little difficulty is encountered in the interpretation of statutory provisions expressly repealing particular legislation or parts of statutes. Cases of implied repeals present a great many difficulties. "Repeals by implication are not favored by the courts and will not be upheld unless the intent to repeal clearly and unmistakably appears from the language used and such holding is absolutely necessary . . ." 235 N.W.2d 306. The preceding sentence is a pronouncement of the Iowa Supreme Court and certainly substantiates the viewpoint that repeals should be express.

A frequent procedure used by some bill drafters is to insert a provision in a bill to the effect that all acts or statutes in conflict with the bill are repealed. Many courts have held that an express general repealing clause to the effect that all inconsistent enactments are repealed is in legal contemplation a nullity. Repeals must be either express or implied.

**F. BILL PROPOSALS -STUDY BILLS**

Not all bills requested to be drafted by the Legislative Services Agency will be for immediate introduction. Often requests will be submitted that are to be drafted as a proposed bill to determine if there appears to be support for the proposal. Since only the individual legislators can have a bill immediately introduced after drafting and then only under their sponsorship, a committee-initiated bill must be initially drafted as a proposed committee bill. In addition, the Code authorizes the Governor and state agencies to submit bill proposals to the General Assembly for their consideration. These bill proposals are drafted in the same manner as those bills sponsored by individual legislators that can be immediately introduced. The only difference is in the listing of sponsorship. On the title page, where sponsorship is listed, a notation is placed in parenthesis indicating that it is a proposed bill and the name of the person or entity requesting the proposal. (See Appendix I, page I-1, for examples of the designation of sponsorship for bills to be introduced and proposed bills.) The only difference between a bill proposal or proposed bill and a study bill is a technical one in

that a study bill is a bill proposal that has been submitted to the Secretary of the Senate or Chief Clerk of the House for purposes of receiving a study bill number.

## 2. DRAFTING OF AMENDMENTS TO BILL -- METHOD.

### A. GENERAL

#### Forms required.

The form required for drafting amendments must be strictly followed in order that the computerized amendment program can function properly. If the proper form is used the text of the bill, as stored in the computer, can be automatically updated if the amendment is adopted. The following is an outline of the forms required for drafting amendments:

(1) Three Basic Operations: Striking data, inserting data, and renumbering.

(2) Numerical Sequence: Each operation must be in increasing numerical order beginning with number 1 and will be applied from beginning to end of the bill or amendment. However, operations to bill titles are applied last in an amendment.

(3) Key Words: Key words must be present to indicate the type of operation.

(4) Page and Line Number: Page and line numbers must be present. Use bill number, page number, and line number. This is the easiest method for amending. Order of page and line numbers should not be alternated in a single operation. All line information must be specified before or after the page number is specified and in one operation. Thus, do not specify part of the line number before the page and part after the page number. Do not say "Page 3, line 2, line 3, by striking the words "is imposed", line 4, by striking the word "tax". The drafter should use the plural in the above example and should provide two operations. For example, "Page 3, lines 2 and 3, by striking the words "is imposed". Page 3, line 4, by striking the word "tax". Also, do not say "Page 5, by striking lines 10 through 35 and page 6, by striking lines 1 through 20". Instead, use "By striking page 5, line 10 through page 6, line 20" or divide the command into two operations. For example, "Page 5, by striking lines 10 through 35. Page 6, by striking lines 1 through 20."

**NOTE:** The computer program for automatic application of amendments to bills will not insert language after a line that has been stricken in the previous operation.

(5) Insert: Whenever language is deleted and replacement language is to be added, the words "and inserting the following" must be present. Merely inserting, adding, etc. does not require these words.



(6) Quotation Marks: Quotation marks must be used to identify for the computer amending program what language what is to be inserted, struck, or renumbered. However, when striking lines or pages, quotation marks are not used.

### **Examples:**

#### **SOME VALID COMMANDS**

##### **Strike**

- 1 Amend Senate File 16 as follows:
- 2 1. Page 2, by striking lines 1 through 20.
- 3 2. Page 3, line 4, by striking the words "a tax of".
- 4 3. Page 4, by striking lines 25 through 35.
- 5 4. Page 9, line 1, by striking the words "of this Act".
- 6 5. By striking page 10, line 4, through page 12, line 2.

##### **Insert**

- 1 Amend House File 1032 as follows:
- 2 1. Page 3, line 8, by inserting after the word "department"
- 3 the following: "or the director".
- 4 2. Page 4, by inserting after line 6 the following: [Insert
- 5 the language as you want it to appear in the bill with quotation
- 6 marks before and after the language.]
- 7 3. Page 5, by striking lines 5 through 7 and inserting the
- 8 following: "except as provided by law."

#### **DO NOT**

(1) Strike punctuation marks by saying "by striking the following: ", "." Instead, refer to the word before the punctuation mark, such as "by striking the word "applicable," and inserting the following: "applicable"."

(2) Combine operations because they are identical, such as "Page 1, lines 6, 7, 18, and 32, by striking the word "legislative"." Instead, each operation must be listed separately.

(3) Indent when a new paragraph or subsection is not intended. Positively stated: Only indent when you intend the material to be indented when inserted in the bill.

(4) Refer to an identical word in a line, for example, the word "section", as "the second word section". Instead refer to two or more words before or after the particular word "section", such as "this section is".

### **Examples:**

Amendment to bill. Assuming House File 16 contains the following section:

1 Section 1. Section 81.11, Code 20\_\_\_, is amended to read as  
2 follows:  
3 81.11 FEES TO TREASURER. All fees received by the depart-  
4 ment or its agencies from the issuance of licenses and registra-  
5 tions shall be deposited ~~monthly~~ quarterly with the treasurer of  
6 state.

An amendment to the bill provision above might read as follows:

1 Amend House File 16 as follows:  
2 1. Page 1, lines 3 and 4, by inserting after the word "de-  
3 partment" the words "of public safety".  
4 2. Page 1, lines 4 and 5, by striking the words "and regis-  
5 trations".  
6 3. Page 1, line 6, by inserting after the word "state" the  
7 words "and credited to the road use tax fund".

### **Amendment to delete change and leave language as is.**

Another type of amendment, which is somewhat difficult to understand and often results in mistakes, is the type of amendment where the object is to provide for no change in a section of current law contained in a bill which provides for a change. For example, if a legislator does not desire that section 81.11 provide for a change from monthly deposit of fees to quarterly deposits, the legislator would submit an amendment to line 5 above in the following form:

1 Amend House File 16 as follows:  
2 1. Page 1, line 5, by striking the words "~~monthly~~ quarterly"  
3 and inserting the following: "monthly".

THIS AMENDMENT IS CONFUSING AND CARE MUST BE TAKEN WHEN DRAFTING SIMILAR AMENDMENTS. THE OBJECT IS TO SHOW THAT NO CHANGE IS TO BE MADE AS TO WHEN FEES ARE TO BE DEPOSITED AND IN ORDER TO CARRY OUT THAT OBJECT THE PROPOSED CHANGES TO THE STATUTE MUST BE REMOVED FROM THE BILL.

The proposed change is indicated in the bill by the words "~~monthly~~ quarterly" and thus removing the words and reinserting the word "monthly" with no strike-throughs accomplishes the object of making no change to the statute. This is a simple example. It must be remembered that if no change is desired, the words must be returned to the form which is found in the statute, i.e., no strike-throughs or underlines. This can be done by striking the entire section making an amendment, if no amendment is wanted.

### **Complex amendments.**

When drafting amendments which add new bill sections to a bill, the normal practice is to leave these bill sections unnumbered; for example, "Sec. \_\_\_\_." However, if the bill sections are going to be referenced, it is often helpful to assign artificial numbers to the new bill sections. For example, in a bill with fifty sections, an amendment might add sections 501 and 502. Then, needed cross-references can refer to the artificial numbers. This technique will simplify the process of building up and checking the bill later, especially if other amendments have also added new sections. However, if Code section numbers are assigned to the new material, it may be best to cite the Code section numbers in cross-references.

### **Numbering lines of amendments.**

Amendments are provided line numbers like bills, except that there are 50 lines to each page of an amendment and it is single spaced. Providing line numbers makes it easier to amend an amendment since an amendment to it will refer to the line numbers in the amending operations.

### **Amendments to amendments.**

Amendments to amendments, known as second degree amendments, should be drafted substantially in the same manner as amendments to the bill. No amendments of a greater degree are allowed pursuant to the rules of the House and Senate, unless the house of a bill's origin is amending the other house's amendment to the bill. Amendments to amendments should cite the page of the amendment being amended and the line number and should be clear in the operations required. Thus, "Page 2, line 3, by striking ....."

### **Example:**

- 1 Amend the House amendment, S-2421, to House File 16 as fol-
- 2 lows:
- 3 1. Page 2, line 4, by striking the word "commissioner" and
- 4 inserting the following: "secretary".

### **Numbering amendments.**

Amendments to bills will be numbered. The Chief Clerk of the House and the Secretary of the Senate will assign consecutive numbers to amendments at the time the amendments are filed. These numbers include a letter preceding the arabic numerals indicating which house, e.g., "H-4221" for a House amendment and "S-3706" for a Senate amendment. It should be noted that the assignment of numbers to amendments generally does not indicate the order in which the amendments may be considered. The numbering of amendments is for identification purposes only.

## **B. SPECIFIC AMENDMENTS**

This part discusses in greater detail the process of drafting amendments and is designed primarily for the drafters of the Legislative Services Agency.

### **Types of amendments.**

Basically, there are two types of amendments--one that directly amends a bill, and one that amends an amendment to a bill. An amendment to an amendment is called a second degree amendment and no amendments can be drawn to a second degree amendment, i.e., an amendment to an amendment to an amendment. However, in the case of a Senate amendment to a House-passed bill which is before the House, or House amendment to a Senate-passed bill which is before the Senate, an amendment to that Senate or House amendment is considered a first degree amendment; thus permitting an amendment to an amendment to an amendment. Because of this special situation, this part will look upon amendments as being of four types: An amendment directly to a bill, an amendment to an amendment, an amendment to the Senate (House) amendment to the House (Senate) bill which is before the House (Senate), and an amendment to the amendment to that Senate or House amendment.

### **Amending clauses.**

The one thing all amendments, regardless of type, have in common is that each must have an amending clause. The amending clause is at the beginning of the amendment and tells the reader what is to be directly amended and designates by number the bill that ultimately is to be amended.

### **Examples:**

1 Amend Senate File 1040 as follows:

1 Amend amendment, S-1122, to Senate File 18 as follows:

Following the amending clause are the operations, i.e., strike, insert, or renumber, that are to be applied.

### **Amendment to a bill.**

In drafting an amendment to a bill, the amending clause must clearly identify what bill is to be amended.

For a bill that has been introduced, identify the bill as a Senate File or House File along with the number assigned to it. Also indicate, in the case of a bill that is passed without amendment, that it is as passed by the original house or, in the case of a bill that is passed after being amended, that it is as amended, passed, and reprinted by the original house.

**Examples:**

1 Amend Senate File 1040 as follows:

1 Amend House File 17, as passed by the House, as follows:

1 Amend House File 481, as amended, passed, and reprinted by  
2 the House, as follows:

**NOTE:** It is important to indicate that the House or Senate File was amended before passage and reprinted since there are two bills are in circulation with the same number, i.e., the original bill and the bill as amended, and the drafter must ensure that the reader knows to which bill the amendment applies. Every bill that is amended and passed is reprinted on pink paper, except during the hectic days before adjournment when there is not time. These reprinted versions are commonly referred to as the "pink copy" of the bill.

For a bill that has not been introduced but is a proposed bill, identify the bill as a Senate or House Study Bill along with the number assigned to it. If a study bill number has not been assigned, the proposed bill can be identified by its LSB number.

**Examples:**

1 Amend House Study Bill 181 as follows:

1 Amend LSB 1124SC as follows:

**NOTE:** When identifying a proposed bill that has not been given a study bill number by its LSB number, remember that LSB numbers include the letters following the arabic numerals. These letters indicate, in a general way, the person that proposed the bill. If the person proposing the bill is a legislator, committee, the Governor (either the Governor's Legislative package (G) or budget bills (B)), state agency, or an interim study committee, the following letters will appear; "S" or "H", "SC" or "HC", "SG" or "HG", "SB" or "HB", "SD" or "HD", or "SI" or "HI", respectively. Appropriation bills have the following letter suffixes: "SA" or "HA" for appropriation subcommittee bills and "SC" or "HC" for full appropriations committee bills. Confidential bills have suffixes which use an "X" for Senate bills and "Y" for House bills, and an additional letter to designate the sponsor. Bills voted out of committee are designated "SV" or "HV". Conference committee reports have a "CR" suffix. See Appendix VIII for the list of suffix codes.

The next part of the amendment is the operations. This part is more complicated than the amending clause. It is easy for a drafter to become confused. The drafter should keep in mind that what the drafter is ultimately doing is redrafting the bill. If the drafter will look at this redrafting as if the drafter were preparing an original draft that includes the bill and the amendment, then the drafting will be easier and make more sense.

The drafter should do this by visualizing what the bill section is to look like and then draft the operations of the amendment to accomplish this. To take an example, consider the amending of a bill section which in turn amends Code section 2A.1 as follows:

**Example 1:**

1 Section 1. Section 2A.1, Code 20\_\_\_, is amended to read as  
2 follows:  
3 2A.1 COMMISSION ESTABLISHED.  
4 A commission on compensation, expenses, and salaries for  
5 elected state officials is established and is referred to in  
6 this chapter as "the commission". The commission is composed  
7 of fifteen members, ~~five~~ four of whom shall be appointed by the  
8 governor, ~~five~~ four of whom shall be appointed by the majority  
9 leader of the senate, ~~and five~~ four of whom shall be appointed  
10 by the speaker of the house of representatives, and three of  
11 whom shall be appointed by the league of Iowa municipalities.  
12 Members of the commission shall be appointed without regard to  
13 political affiliation and shall not be state officials or em-  
14 ployees, employees of any state department, board, commission,  
15 or agency or of any political subdivision of the state.

Assume that the requester wants to amend Section 1 of the bill to have a commission that consists of only 12 members with the Governor, majority leader of the Senate, and the Speaker of the House each selecting four. The obvious way is to change the "fifteen" to "twelve" on line 7 and eliminate the language relating to the League of Iowa Municipalities. Without visualizing how the new Section 1 should look if one were to originally draft a bill section that would include the above assumption with the actual Section 1, one might proceed as follows:

**\*Example 1a:**

1 [Amending clause]  
2 1. Page 1, line 7, by striking the word "fifteen" and in-  
3 serting the following: "twelve".  
4 2. Page 1, line 9, by striking the word "~~and~~".  
5 3. Page 1, lines 10 and 11, by striking the words ", and  
6 three of whom shall be appointed by the league of Iowa munic-  
7 palities".

\*This amendment has been drafted incorrectly for instructional purposes.

If the drafter had visualized how the new bill section should be redrafted, the drafter would realize that the bill section should read as follows:

1 Section 1. Section 2A.1, Code 20\_\_\_, is amended to read as  
2 follows:  
3 2A.1 COMMISSION ESTABLISHED.  
4 A commission on compensation, expenses, and salaries for  
5 elected state officials is established and is referred to in  
6 this chapter as "the commission". The commission is composed  
7 of ~~fifteen~~ twelve members, ~~five~~ four of whom shall be appointed  
8 by the governor, ~~five~~ four of whom shall be appointed by the  
9 majority leader of the senate, and ~~five~~ four of whom shall be  
10 appointed by the speaker of the house of representatives. Mem-  
11 bers of the commission shall be appointed without regard to  
12 political affiliation and shall not be state officials or em-  
13 ployees, employees of any state department, board, commission,  
14 or agency or of any political subdivision of the state.

Thus the manner in which Example 1a was drafted is incorrect for two reasons: First, where the amendment is changing language in the bill section that amends existing law, one must indicate this by strikes through existing language and underlines for new words. Hence, the word "fifteen" being struck on line 2 of Example 1a must be inserted with strike-throughs before the word "twelve" on line 3 of Example 1a and that word "twelve" must be underlined. Second, in operation 2, the drafter cannot eliminate the striking of a word or words by just taking it out of the bill or the bill will not read like existing law. Hence, operation 2 must tell the reader to add the same word without the strike-throughs. The correct amendment to Example 1 would read as follows:

### **Example 1b:**

1 [Amending clause]  
2 1. Page 1, line 7, by striking the word "fifteen" and in-  
3 serting the following: "~~fifteen~~ twelve".  
4 2. Page 1, line 9, by striking the word "~~and~~" and inserting  
5 the following: "and".  
6 3. Page 1, lines 10 and 11, by striking the words ", and  
7 three of whom shall be appointed by the league of Iowa munici-  
8 palities".

It is easier to draft amendments to sections of bills that add new sections, subsections, etc. to the Code since the drafter need only strike the language since it is new and need not worry about inserting existing Code language since none is struck. However, in situations where the bill section changes language in existing law, i.e., strikes old language and inserts new, the drafter must remember to reinsert the old language when deleting the change as was done in lines 4 and 5 of Example 1b.

### **Amendment to an amendment.**

Quite often a drafter is requested to draft an amendment to an amendment. It is important to keep in mind that the drafter will be drafting to amend an amendment to a bill. Hence, the amending clause must clearly identify the amendment to be amended and the bill that will ultimately be amended. (See the identification used for a bill in "Amendments to a bill".) If the amendment has been filed (this can only happen if the bill has been introduced), the amending clause must identify the amendment number and the bill.

### **Examples:**

1 Amend amendment, H-1426, to House File 327 as follows:

1 Amend amendment, S-2162, to House File 481, as amended,  
2 passed, and reprinted by the House, as follows:

In cases where one is amending an amendment which is a major one, i.e., a committee amendment or one that strikes everything and inserts new language to which a number of amendments will be drawn, some drafters prefer to identify the amendment beyond the number, such as: "Amend the Committee on Ways and Means amendment, H-4217, . . ." But even though one identifies the amendment by committee or individual sponsor, the drafter must still use the amendment number.

In the case of a bill that has not been introduced, an amendment to it does not have a number. In addition, a bill may have been introduced but the amendment to it may not have been filed, as in the case of a bill assigned to committee. Thus, an amendment to such amendments must identify them by sponsor and LSB amendment number, or if no sponsor, than by LSB amendment number. The LSB amendment number is located on the bottom right hand side of the last page, the same place that LSB bill numbers are located.

### **Examples:**

1 Amend the Holt amendment, SSB 142.301, to Senate Study Bill  
2 142, as follows:

1 Amend the proposed Committee on Local Government amendment,  
2 SF 426.502, to Senate File 426, as follows:

1 Amend amendment, LSB 1042SC.403, to the proposed Committee on  
2 Energy bill, LSB 1042SC, as follows: [This amending clause will  
3 only be used in the rare situations when a proposed bill has not  
4 received a study bill number.]

**NOTE:** LSB amendment numbers are directly related to the bill that is being amended even if the amendment is to another amendment. The LSB amendment number begins with "SF" or "HF" plus the bill number if introduced, with "SSB" or "HSB" plus the



study bill number if the bill has received one, or with "LSB" plus the LSB bill number if not introduced or filed as a study bill. After the above numbers comes a period and three additional numbers of which the first represents the text processor who prepared the amendment and the second two representing the number of amendments to the bill that have been typed by that text processor. Thus "SF 1246.302" indicates that the amendment is to Senate File 1246 and was typed by the text processor with the identification number 3, and is the second amendment (up to that time) that has been typed by that text processor.

The next part of the amendment to the amendment is the operations. This part is often very confusing and will often cause problems when drafting. But remember to visualize first what the original amendment is to look like after it is combined with its amending amendment. Again, to visualize what the new combined amendment is to look like, the drafter should visualize what the bill section should look like after the combined amendment is incorporated into it. Take the example that was used in "Amendment to a bill". Let's assume a sponsor wants to amend the amendment in Example 1b to reduce membership from 15 to 12, but to allow the League of Iowa Municipalities to select three members. In drafting this amendment to the one in Example 1b, visualize first what the bill section amending section 2A.1 should look like. Then visualize the combined amendment, i.e. Example 1b combined with the amendment to be drafted.

The bill section should look like this:

1 Section 1. Section 2A.1, Code 20\_\_\_, is amended to read as  
2 follows:

3 2A.1 COMMISSION ESTABLISHED.

4 A commission on compensation, expenses, and salaries for  
5 elected state officials is established and is referred to in  
6 this chapter as "the commission". The commission is composed  
7 of ~~fifteen~~ twelve members, ~~five~~ three of whom shall be ap-  
8 pointed by the governor, ~~five~~ three of whom shall be appointed  
9 by the majority leader of the senate, ~~and five~~ three of whom  
10 shall be appointed by the speaker of the house of representa-  
11 tives, and three of whom shall be appointed by the league of  
12 Iowa municipalities. Members of the commission shall be ap-  
13 pointed without regard to political affiliation and shall not  
14 be state officials or employees, employees of any state depart-  
15 ment, board, commission, or agency or of any political subdi-  
16 vision of the state.

The combined amendment should look like this: (Remember, we are amending the bill section set out in Example 1.)

1 [Amending clause]

2 1. Page 1, line 7, by striking the word "fifteen" and in-  
3 serting the following: "~~fifteen~~ twelve".

- 4 2. Page 1, line 7, by striking the word "four" and inserting  
5 the following: "three".
- 6 3. Page 1, line 8, by striking the word "four" and inserting  
7 the following: "three".
- 8 4. Page 1, line 9, by striking the word "four" and inserting  
9 the following: "three".

**NOTE:** As said previously, even though operations 2, 3, and 4 are identical except for line numbers, they cannot be combined as one.

Now it is time to draft the amendment to the amendment (Example 1b). Operation 1 of Example 1b needs no amending. Operation 2 needs to be taken out because the combined amendment does not require it. Operation 3 also needs to be taken out because it strikes language added in the bill section that the drafter wants left in. At first glance, that might seem enough since all the operations of Example 1b have been considered. However, changes need to be made in the bill section to change the number of members to be appointed by each individual from four to three. These changes, plus the elimination of operations 2 and 3, must be placed in their proper order according to page number and line number. The amendment to Example 1b would read as follows:

**Example 2:**

- 1 [Amending clause]
- 2 1. Page 1, by inserting after line
- 3 the following: 3 "\_. Page 1, line 7, by striking the word "four" and in-
- 4 serting the following: "three".
- 5 \_ Page 1, line 8, by striking the word "four" and in-
- 6 serting the following: "three"."
- 7 2. Page 1, by striking lines 4 and 5.
- 8 3. Page 1, by inserting before line 6 the following:
- 9 "\_. Page 1, line 9, by striking the word "four" and in-
- 10 serting the following: "three"."
- 11 4. Page 1, by striking lines 6 through 8.

As always, the quotation marks are a necessity because they tell the reader and computer what it is to which the operations are being applied. It is especially important to have the correct number of quotes when amending an amendment to insert additional operations as Example 2 does beginning on line 3. A good method of checking this is to cover up the beginning and ending quotes of the additional operations that are being inserted. Then read the operations as if they are part of the combined amendment to see if any quotes are missing. This method is very helpful when drafting an amendment to an amendment to the other house's amendment to the bill. Drafters often have problems with quotes in this situation. The operations of Example 2 are numbered as all amendment operations must be. However, when an amendment amends another amendment to add operations to it, it is best to leave these

new operations unnumbered, as is done on lines 3, 5, and 9, so as not to add to confusion.

**NOTE:** It may seem to be a very involved process to "visualize" what the bill section is to read like and the combined amendment when drafting an amendment to an amendment; but as the drafter gains experience, one really only visualizes a line, phrase, or sentence. In addition, as one gains experience, the drafter will be aware of ways to combine operations. In Example 2, an experienced drafter will recognize the fact that in Example 1b, lines 4 through 8 need to be struck and additional operations need to be added. Both can be done together, for instance: "Page 1, by striking lines 4 through 8 and inserting the following: [insert new operations beginning on lines 3, 5, and 9 of Example 2]".

### **Amendment to other house's amendment.**

Once a Senate or House bill has passed and the other house amends and passes it, the house where the bill was originally introduced may only amend the bill by amending the other house's amendment. This type of amendment is identical to an amendment to an amendment, except this amendment is considered a first degree amendment and thus can be amended. The other house's amendment is an amendment that has been redrafted, if necessary, to include all other amendments that were adopted by that house. The Legislative Services Agency does not draft this amendment. Thus, an incorrectly drafted amendment that makes up this type of amendment will contain the error. All that house does is "collate" the drafter's mistakes which is exactly the way a bill is built up to go to the Governor. There are only two amending clauses that will be used as follows:

### **Examples:**

1 Amend the Senate amendment, H-4212, to House File 153, as  
2 amended, passed, and reprinted by the House, as follows:

1 Amend the House amendment, S-3714, to Senate File 2181, as  
2 passed by the Senate, as follows:

**NOTE:** Even though it is a Senate (House) amendment, it has a House (Senate) amendment number because that is the chamber to which it has been messaged and in which it has been filed. This is true even though the amendment is made up of only one amendment. Example: amendment S-4132 is filed in the Senate and is the only amendment adopted to the House bill, but when it is messaged to the House and filed, it is listed as the Senate amendment, H-5237.

For illustration purposes, let's assume that Example 1b is the Senate amendment, then an amendment to it to accomplish the same as was the basis for Example 2 would be identical to Example 2, except for the amending clause.

### **Amendment to amendment to other house's amendment.**

This type of amendment is permissible even though it is a third degree amendment and would not be allowed if all three of the amendments were originally offered in the same house. The amending clause is like the others requiring the identification of each amendment by amendment number and the bill that is being amended.

#### **Examples:**

1 Amend amendment, H-4216, to the Senate amendment, H-4212, to  
2 House File 153, as amended, passed, and reprinted by the House,  
3 as follows:

1 Amend amendment, S-3731, to the House amendment, S-3714, to  
2 Senate File 2181, as passed by the Senate, as follows:

For illustration purposes, let's assume that Example 1b is the Senate amendment to the House bill and Example 2 is the amendment to which an amendment is to be drafted. Assume further that the requester wants the membership to be increased to 19 members so that the League of Iowa Municipalities and the Iowa State Association of Counties can each select two members. In addition, the number of appointees by the Governor, Senate Majority leader, and the Speaker would remain the same at five each. In order to accomplish this, the bill section needs to read as follows:

1 Section 1. Section 2A.1, Code 20\_\_\_, is amended to read as  
2 follows:  
3 2A.1 COMMISSION ESTABLISHED.  
4 A commission on compensation, expenses, and salaries for  
5 elected state officials is established and is referred to in  
6 this chapter as "the commission". The commission is composed  
7 of ~~fifteen~~ nineteen members, five of whom shall be appointed by  
8 the governor, five of whom shall be appointed by the majority  
9 leader of the senate, ~~and~~ five of whom shall be appointed by  
10 the speaker of the house of representatives, two of whom shall  
11 be appointed by the league of iowa municipalities, and two of  
12 whom shall be appointed by the iowa state association of coun-  
13 ties. Members of the commission shall be appointed without re-  
14 gard to political affiliation and shall not be state officials  
15 or employees, employees of any state department, board, commis-

To change the original bill section into the desired one shown above, the following amendment needs to be applied to the original bill section:

#### **Example 3:**

1 [Amending clause]

- 2 1. Page 1, line 7, by striking the word "fifteen" and in-
- 3 serting the following: "~~fifteen~~ nineteen".
- 4 2. Page 1, line 7, by striking the words "~~five~~ four" and
- 5 inserting the following: "five".
- 6 3. Page 1, line 8, by striking the words "~~five~~ four" and
- 7 inserting the following: "five".
- 8 4. Page 1, line 9, by striking the words "~~five~~ four" and
- 9 inserting the following: "five".
- 10 5. Page 1, line 10, by striking the words "and three" and
- 11 inserting the following: "two".
- 12 6. Page 1, line 11, by inserting after the word "municipal-
- 13 ities" the following: ", and two of whom shall be appointed by
- 14 the Iowa state association of counties".

Thus, the amendment to the amendment, Example 2, to the Senate amendment, Example 1b, must, when combined with those two amendments, result in the above Example 3. In drafting this amendment, it is beneficial to keep in mind exactly how the ultimate result must read.

Below is set out the original bill section and the two amendments and are labeled for better clarification:

**Example 1:** Original bill section.

1 Section 1. Section 2A.1, Code 20\_\_, is amended to read as  
 2 follows:  
 3 2A.1 COMMISSION ESTABLISHED.  
 4 A commission on compensation, expenses, and salaries for  
 5 elected state officials is established and is referred to in  
 6 this chapter as "the commission". The commission is composed  
 7 of fifteen members, ~~five~~ four of whom shall be appointed by the  
 8 governor, ~~five~~ four of whom shall be appointed by the majority  
 9 leader of the senate, ~~and five~~ four of whom shall be appointed  
 10 by the speaker of the house of representatives, and three of  
 11 whom shall be appointed by the league of Iowa municipalities.  
 12 Members of the commission shall be appointed without regard to  
 13 political affiliation and shall not be state officials or em-  
 14 ployees, employees of any state department, board, commission,  
 15 or agency or of any political subdivision of the state.

**Example 1b:** Senate amendment.

1 [Amending clause]  
 2 1. Page 1, line 7, by striking the word "fifteen" and in-  
 3 serting the following: "~~fifteen~~ twelve".  
 4 2. Page 1, line 9, by striking the word "~~and~~" and inserting

5 the following: "and".

6 3. Page 1, lines 10 and 11, by striking the words "and  
7 three of whom shall be appointed by the league of Iowa municipi-  
8 palities".

**Example 2:** Amendment to Senate amendment.

1 [Amending clause]

2 1. Page 1, by inserting after line 3 the following:

3 "\_ Page 1, line 7, by striking the word "four" and in-  
4 serting the following: "three".

5 "\_ Page 1, line 8, by striking the word "four" and in-  
6 serting the following: "three"."

7 2. Page 1, by striking lines 4 and 5.

8 3. Page 1, by inserting before line 6 the following:

9 "\_ Page 1, line 9, by striking the word "four" and in-  
10 serting the following: "three"."

11 4. Page 1, by striking lines 6 through 8.

Now is the time to draft the amendment and see why third degree amendments, except in this one case, are not permitted. Looking at Example 3 which is what the three amendments, when combined, will read like, one sees that operation 1 is similar to operation 1 of the Senate amendment except that "twelve" needs to be changed to "nineteen". But to do this, one must amend the amendment to the Senate amendment which will provide for this. Looking at Example 2, one sees that a new operation is needed. See Example 4 following this on lines 4, 5, and 6 for this. Next, the drafter needs to provide for operations to change the number of members selected by the Senate Majority Leader, Speaker, and Governor from the "four" in the original bill section, Example 1, back to "five". The Senate amendment does not deal with this so one must add operations to do it. But the amendment to the Senate amendment provides for adding operations to reduce the number from "four" to "three". Since the drafter needs to strike from the original bill section "five four" and insert "five", it is easier and less confusing if the drafter strikes these operations in Example 2 and inserts the ones needed. See Example 4, operations 2 and 3. Operation 2 of Example 2 is needed for the drafter's purpose and will not be amended. Operation 4 of Example 2 strikes language in the Senate amendment that would strike language the drafter wants left in, hence, operation 4 is kept. Additional operations are needed to make the Senate amendment do what is wanted. See Example 4, operation 4. Operation 4 needs further explanation. The language on lines 17 and 18 of operation 4 says that the lines 18 through 23 (note quotation marks) are to be inserted into Example 2 as one new operation beginning on line 18. This new operation says that lines 19 through 23 are to be added to the Senate amendment as two new operations. These new operations say that the original bill section is to be amended as provided in those operations beginning on lines 19 and 21. (Note the quotation marks.) A set of quotation marks are needed to indicate what is to be done to Example 2, and a second set to indicate what is to be done to the Senate amendment.

#### **Example 4:**

1 Amend amendment, Example 2, to the Senate Amendment, Example  
2 1b, to House File \_\_\_\_\_, (Example 1) as passed by the House, as  
3 follows:

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

5 "\_. Page 1, line 3, by striking the word "twelve" and in-  
6 serting the following: "nineteen"."

7 2. Page 1, by striking lines 3 through 6 and inserting the  
8 following:

9 ""\_. Page 1, line 7, by striking the words "~~five~~ four"  
10 and inserting the following: "five".

11 \_ Page 1, line 8, by striking the words "~~five~~ four" and  
12 inserting the following: "five".""

13 3. Page 1, by striking lines 9 and 10 and inserting the  
14 following:

15 ""\_. Page 1, line 9, by striking the words "~~five~~ four"  
16 and inserting the following: "five".""

17 4. Page 1, line 11, by inserting after the figure "8" the  
18 following: "and inserting the following:

19 "\_. Page 1, line 10, by striking the words "and three"  
20 and inserting the following: "two".

21 \_ Page 1, line 11, by inserting after the word "municipali-  
22 ties" the following: ", and two of whom shall be appointed  
23 by the Iowa state association of counties".""

#### **Conference committee reports.**

When the Senate amendment, Example 1b, is amended by Example 2 and the House passes the bill, the Senate has two options: One is to accept the House amendment, i.e., concur with the House amendment to the Senate amendment, or to refuse to concur with the House amendment. The Senate may not amend the House amendment. If the Senate refuses to concur, the House File goes back to the House which then must either recede from its amendment or insist upon it. If the House insists, a conference committee is appointed to resolve the differences and a report is drawn up recommending what changes should be made in the House File. The conference committee report cannot be amended but must be adopted or rejected as presented. See Appendix I(G) for an example of a conference committee report, and see Appendix II for the requirements for the drafting and preparation of conference committee reports.

# **DIVISION E -- SPECIFIC PROVISIONS, STYLE, PUNCTUATION, AND PREPARATION OF A TYPED BILL AND AMENDMENT**

## **1. GENERAL.**

### **Format--typing.**

When the language has been determined for a bill or amendment draft, the next step is establishing the format. All bills and amendments will be typed by the Legislative Services Agency and during typing the bills and on occasion amendments will be reviewed. However, there are rare occasions (usually during last nights of a session) when the Senate and House Legal Counsel's office may draft amendments. In many instances a complete review as to language, usage, intent, citations, or any other purpose will be performed. Mechanical errors will be corrected. If questions as to intent or language are detected, the sponsor or drafter (if the bill or amendment has been drafted by persons other than those employed by the Legislative Services Agency) may be contacted. The exact procedures are dependent upon the directions given to the Legislative Services Agency.

Two absolute requirements which must be met in drafting a bill are the inclusion of the enacting clause and reference to the Code or Code Supplement in the case of amendments to the permanent law. Temporary provisions of law are contained in the session laws. Titles are, of course, quite important. In drafting amendments, the amending clause and designation of the bill to be amended are required.

### **"Purposes" section--citation section.**

The purpose of a statute should be apparent from its content. However, the legislature often wishes to include a statement of its purposes and findings in enacting the statute, especially if the statute is likely to be subjected to a court test, as is the case with bonding statutes and statutes that authorize financial assistance for private use where the question may arise as to whether the assistance is for a public purpose. A "purposes" section should precede the applicable sections of the bill and should generally be enacted as a temporary section. Except in the case of lengthy uniform or model acts, a section stating how the Act may be cited is generally not helpful, as it should generally be cited by its Code chapter or section number for ease in finding.

### **Severability clause.**

There are very few cases where it is necessary to provide a severability clause because the severability clause merely repeats that which is already judicially determined law



and chapter 4 of the Code provides for a general severability clause. A typical severability clause provides:

"If any provision of this Act or the application thereof to any person is invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable."

This clause should not be used unless the legislator specifically requests it. There may be cases where a legislator would desire that if a provision of an Act is declared invalid, the whole Act should be declared invalid. Since this situation is contrary to the normal manner of statutory construction and the Code of Iowa, it is necessary in this case to specifically provide that if any portion of the Act is declared invalid the whole Act is void.

### **Savings clause--"grandfather clause".**

A savings clause provides that a change in the law accomplished by enactment of a bill shall not affect matters such as actions or proceedings already commenced, rights and duties that have matured, or penalties that were incurred prior to the effective date of the bill. The savings clause is not generally necessary since chapter 4 of the Code provides a savings clause but the drafter should be alert for situations where this provision should be considered.

A type of savings clause is a clause often referred to as the "grandfather" clause. The purpose of the grandfather clause is to insure that legislation acts prospectively and does not affect persons in a given situation. An example of a situation where a grandfather clause might be useful would be legislation that requires persons owning automobiles to install a particular safety device. If a situation existed where the safety device was impossible to install on cars of a certain age the following grandfather clause might be used:

"This Act does not apply to automobiles manufactured before the year 1968."

Grandfather clauses are frequently used in licensing laws where new educational standards will be required for persons entering a field, and persons who have previously qualified and worked in the field will be exempt from the educational standards.

### **"Sunset" clause.**

A "sunset" clause, to repeal newly enacted sections at some date in the future, should be placed at the end of a bill. These repeals can create codification problems if they apply also to amendments to existing law. At the time the "sunset" takes effect, the character of the amendment or intervening amendments may make it difficult to return the amended section to the form it had before the "sunsetting" amendment was enacted. Language should be used to direct exactly what is to be done with the section when the "sunset" of the amendment takes place. In this case the sunset section should

probably be a temporary section. Footnotes may be used in the Code to inform readers that the sunset was enacted. If the sunset section applies only to one or more new sections which are all part of a new chapter or a separate division of an existing chapter, the drafter may wish to designate it as a "NEW SECTION." with the idea that it should be printed in the Code and repealed along with the other new sections. To avoid any confusion, the sunset clause should be expressed positively, i.e., "Sections \_\_\_ through \_\_\_ are repealed on \_\_\_\_\_", and not as was done at the time the Iowa lottery statute was enacted, which contained a provision that it was the intent of the general assembly that the Act was to have temporary effect only and was to be repealed on July 1, 1990.

If the legislature decides to keep the material and repeal the "sunset", it must be repealed before it takes effect, or the material will have to be reenacted.

### **Senate confirmation of appointments.**

Senate File 2301, enacted by the 1980 Session of the General Assembly, established a standard procedure for the submission of gubernatorial appointments for confirmation by the Senate and provided for confirmation by a two-thirds majority. When drafting for a position subject to Senate confirmation, the drafter should simply use the words "subject to confirmation by the senate". When creating a term subject to Senate confirmation, the drafter should use the words "beginning and ending as provided in section 69.19".

### **Staggered terms--changes in membership.**

Often the simplest way to provide for staggered terms on a new board, commission or other agency is to state the regular term in the new sections which establish the board, commission or agency, and to provide for staggering the initial terms in a temporary section which is an exception to the general statement. This technique eliminates the carrying of outmoded material relating to initial terms in the Code, and also simplifies the drafter's job if the membership is later changed. The problems involved in drafting a change in the number of members on a board, commission or other agency or a change in the terms of members tend to differ in each case depending on factors such as whether the positions are elective or appointive, and the controversial or sensitive nature of the work done by the agency. However, the necessary transition provisions can generally be accomplished by a temporary section.

### **Submission of questions to the electors.**

In providing for the submission of a question to the electors, the drafter should use language similar to "the (board, city, etc.) shall direct the (state or county) commissioner of elections to submit to the qualified electors of the (state, county, city, etc.) at the next (general, primary, city, etc.) election the question of \_\_\_\_\_". See sections 39.3, 47.1 and 47.2.

**Public funds.**

Generally public funds should be established in the office of the Treasurer of State, with the applicable agency authorized to certify warrants. If funds are to be regularly distributed, quarterly payment is often authorized, and it may be necessary to provide for proration among recipients, rather than "first come, first served".

**Governmental reorganizations--transitions.**

In drafting provisions to transfer governmental functions, the drafter may need to consider transition provisions for the following:

1. Moneys, and accounts payable and receivable, held or managed by the governmental unit whose functions are to be transferred.
2. Property in the custody of the governmental unit, including both supplies and records.
3. Employees, including their merit standing and IPERS or other pension plan eligibility.
4. Rules, orders and forms. Generally the rules, orders and forms of the existing unit are continued in effect until the adoption of new ones by the unit assigned the functions.
5. The actual functions to be transferred.

It may be helpful to authorize the governor to handle parts of the transfer by executive order, or to direct the director of revenue and finance to transfer moneys or accounts. Generally the details should not be included in the draft but should be left to the appropriate officials. Transition provisions should generally be in temporary sections which will not be codified.

**Penalties.**

Besides being sure that these are mentioned in the title, the drafter should be careful that the prohibition and penalty are clearly expressed, so that they cannot be held void for vagueness or because of a possibility of arbitrary enforcement. If a penalty is to be civil rather than criminal, the words "civil penalty" rather than "civil fine" should be used, and it may be helpful to provide for enforcement by the county attorney or attorney general, and to indicate where the penalty should be deposited. For a discussion of the difference between a civil penalty and a fine, see Op. Att'y Gen. #79-32 Miller and Schantz to Kopecky, 3-9-79.

## **Establishing administrative agencies.**

Although the Iowa court tends to uphold delegations of authority to administrative agencies, it seems best for the drafter to suggest reasonably specific standards to define the authority of an agency and prevent arbitrary action by it. The drafter should also consider providing for necessary subdelegation of discretionary authority by the agency head. Administrative rulemaking procedures for state agencies are controlled by chapter 17A. If a violation of a valid agency rule is to be punishable as a crime, the statute should so provide. The drafter may also wish to consider the effect of laws such as the open meetings law, chapter 21, and the examination of public records law, chapter 22.

## **Adoptions by reference.**

Frequently a portion of existing federal statutes, regulations, or other matters may need to be adopted by reference. The general rule for adoption by reference of material other than Iowa statutes is that future amendments to the adopted material are not included; indeed, it is generally an unconstitutional delegation of legislative power to attempt to adopt future amendments by reference. An exception to the general rule probably prevails in those areas where federal law preempts conflicting state law provisions, e.g., in the areas of federal-state unemployment and welfare programs authorized by the federal Social Security Act. It is also advisable to be as specific as possible in describing the material to be adopted, and to check citations for accuracy. References such as "all provisions of law" are likely to be impractically vague, but have been held to include future amendments. In adopting other provisions of Iowa statutes, it sometimes seems necessary to use a phrase such as "to the extent applicable", although the drafter should be more specific if possible, particularly if there are penalties or other sensitive provisions in the material adopted by reference. Under section 4.3, future amendments to Iowa statutes are included in an adoption by reference. However, there is authority to the effect that the subsequent repeal of a section adopted by reference does not affect the adopting statute, and the repealed statute remains in effect for the purposes of the adopting statute. See Sutherland Statutory Construction sec. 23.32.

It may be necessary in adopting certain federal laws by reference to indicate that amendments to the federal laws or regulations subsequent to a stated date are not adopted. See, for example, the definition of "Internal Revenue Code" in section 422.3.

## **Resolutions.**

Resolutions are of three kinds: Simple, concurrent, and joint.

1. Simple resolutions are used mainly to express sympathy or thanks or for appointment of a special committee and are acted on only by the house of the legislature in which they originate. This type of resolution requires a title but does not include an explanation.

2. Concurrent resolutions are adopted by both houses of the General Assembly. The resolutions may be in the form of memorials to Congress, may provide for a joint meeting of both houses to hear some visiting speaker, may authorize expenditures of funds already appropriated by the General Assembly, may direct adjournments or recesses, may request legislative studies, or may be used for issuing administrative orders. This type of resolution also requires a title but no explanation is necessary.

3. Joint resolutions have all the formalities of a bill, must have explanations, and pass through all the stages of a bill. In addition to the ordinary use of a resolution, joint resolutions are employed for the nullification of administrative rules, the enacting of temporary laws and for administrative orders, the creation of special commissions, and are always used to propose amendments to the Constitution of the State of Iowa or to propose or ratify amendments to the Constitution of the United States. Amendments to the Constitution of the State of Iowa should generally be drafted in the form of striking and rewriting the applicable sections, rather than showing the changes by strikes and underlines, because the amendments are presently printed in the Code following the original text. (There is also a codified version of the Constitution in the Code.)

The use of joint and concurrent resolutions is often confused, but the concurrent is more appropriate for mere legislative directives since the resolution does not go through the process of a bill. However, concurrent resolutions have been used pursuant to statute in cases where a constitutional majority of each house and the Governor must give their approval prior to actions of certain state agencies, such as the state Board of Regents for construction projects. Joint resolutions appropriating money or otherwise enacting a law require the use of the same enacting clause as a bill instead of the "Be It Resolved by . . ." used for other resolutions. Joint Resolutions for nullification of administrative rules use the standard resolving clause.

## **2. TYPING FORMAT.**

### **General directions.**

All copies of a bill and amendments are typed as specified by the Legislative Services Agency.

### **Identical bills.**

If drafted simultaneously, identical bills introduced in each house show who is sponsoring the bill in the other house.

## **Abbreviations.**

Do not use abbreviations in typing bills except that after section 1 of a bill, all other sections are entitled "Sec.".

## **Numbers.**

All numbers should be stated in words. Exceptions are: (1) citations and references to statutes which should be stated in numerals; (2) line item dollar amounts in budget bills, which should be stated in numerals, unless the section is to be codified; (3) sections of budget bills in which an appropriation is made or in which a dollar limitation of an appropriation is made, the dollar amount should be expressed in numerals, unless the section is to be codified; (4) the listing of the full-time equivalent positions (FTEs) in budget bills are to be expressed in numerals; and (5) dates where the day and year are used, for example, use "July 1, 1989" not "the first of July, 1989".

## **Capital letters.**

Capital letters are used only for:

1. The first word of a sentence or in some cases after a colon.
2. The first word of a subsection, paragraph, subparagraph, subparagraph subdivision, and subparagraph subdivision part.
3. Proper names of persons, states and political subdivisions, countries, nationalities, bodies of water, holidays, months, and publications. For example, "Cedar county", "city of Waterloo", "Nishnabotna river", "Grove street", "state of Illinois", "Iowa state university of science and technology", university of northern Iowa, and "state university of Iowa".
4. The words "Code", "Act", and "(Seventy-third) General Assembly" when referring to the Iowa Code, a particular legislative Act, or a particular numbered General Assembly.
5. Popular names and short titles of federal laws and of state laws when shown with quotation marks.
6. "Title", "Article", "Division", and "Part" when used in a centered headnote with numerals, as "Title X", "Division V", or "Part 3", but not when used in text, as "in this article" or "in this part". However, also capitalize "Title" if referring to a numbered title of the Iowa Code, e.g., Title II, or if referring to a title of a federal Act, e.g., Title XIX of the federal Social Security Act.

## **Capital letters are not used for:**

Titles or names of state or federal officers, agencies, and departments. For example, the words "governor", "department of revenue and finance", and "supreme court" are

not capitalized. Neither are the words "section" or "chapter" capitalized in typing bills. The exception to this rule may be constitutional amendments if the section of the Constitution being amended capitalizes words such as "Governor", "Secretary of State", and "Supreme Court".

### **Punctuation.**

Punctuation is very important in amendments which insert or strike part of a Code section. If it is intended to strike or insert a punctuation mark along with the inserted or struck words, the punctuation mark must have a strike over it or through it, or an underline for an insertion. As a general rule punctuation should be used infrequently in bill drafting. It should only be used where sentence structure requires it. A comma, particularly, should not be depended on to show meaning. Preferable form is to use a comma or a period rather than a semicolon. If semicolons seem to be needed, the sentence is probably too long. If extensive punctuation seems to be essential, consider whether the material should be rewritten to avoid some of the punctuation. Perhaps it should be rewritten into several shorter sentences.

**Preferable form for a series of subparts is to use explanatory words such as "all of the following" or "any of the following" in the introductory sentence, and end each subpart with a period, rather than to end each subpart with a comma or semicolon and to use the word "or" or "and" before the last subpart in the series.** Each subpart of a series should be a separate indented phrase, sentence, or paragraph. For example, a sentence such as "Copies of (1) a balance sheet; (2) an income statement; and (3) a statement of the source and application of funds shall be filed with the auditor." should be rewritten as:

"Copies of all of the following shall be filed with the auditor:

1. A balance sheet.
2. An income statement.
3. A statement of the source and application of funds."

When a series of three or more terms is used within a sentence, commas should be used between the terms and preceding the "and" or "or" which connects the final term in the series.

### **Citation of statutes.**

Section 3.1, subsection 3, of the 1989 Code provides:

"3. All references to statutes shall be expressed in numerals . . . ."

The following rules will be in effect in regard to citations:

1. Enumeration of the section to be amended contained in amending clauses shall be by numbers.

**Example.**

1 Sec. 2. Section 300.1, Code 19\_, is amended to read as 2 follows:

Prior to 1981 both words and numbers were used.

2. Citations to a section within the text shall cite by number. The words "of the Code" shall not be used following the numerical citation. For example:

1 Sec. 2. Section 3.1, Code 19\_, is amended to read as 2 follows: 3 3.1 DUTIES. The director shall carry out all duties pro4 vided by law and section 3.2.

## **APPENDIX I -- BILL AND AMENDMENT DRAFTING EXAMPLES**

### **A. STANDARD SPONSORSHIP LANGUAGE**

**1. Committee bill (voted out).**

BY COMMITTEE ON EDUCATION

**2. Individual legislator bill.**

BY HUTCHINS BY HANSON of Delaware (if more than one Hanson or Hansen in same house)

**3. Committee study bill (requested by Chairperson).**

BY (PROPOSED COMMITTEE ON AGRICULTURE BILL BY CHAIRPERMAN PRIEBE)

**4. Committee study bill (requested by a legislator other than the Chairperson).**



BY (PROPOSED COMMITTEE ON JUDICIARY AND LAW ENFORCEMENT BILL REQUESTED BY ROSENBERG)

**5. Interim committee study bill (proposed by Study Committee).**

BY (PROPOSED PENSION TAXATION EQUITY STUDY COMMITTEE BILL)

**6. Interim committee study bill (recommended by vote of Study Committee).**

BY (RECOMMENDED BY PENSION TAXATION EQUITY STUDY COMMITTEE)

**7. Individual legislator study bill (new format).**

BY (PROPOSED BILL REQUESTED BY HOLT)

**8. Governor's proposed bill.**

BY (PROPOSED GOVERNOR'S BUDGET BILL)

BY (PROPOSED GOVERNOR'S BILL)

**9. Departmental study bill.**

BY (PROPOSED DEPARTMENT OF ECONOMIC DEVELOPMENT BILL)

## **B. EXAMPLES OF AMENDING STATUTES**

**1. Striking all of a section and replacing it.**

1 Section 1. Section 12.14, Code 20\_\_, is amended  
2 by striking the section and inserting in lieu thereof  
3 the following:  
4 12.14 STATEMENT ITEMIZED. [Insert the new lan-  
5 guage without underlines.]

**2. Striking whole subsection and replacing it.**

1 Section 1. Section 321.1, subsection 30, Code

2 20\_\_\_, is amended by striking the subsection and in-  
3 serting in lieu thereof the following:  
4 30. [Insert the new language without underlines.]

### 3. Striking whole subsection without replacing it.

1 Section 1. Section 321.1, subsection 30, Code  
2 20\_\_\_, is amended by striking the subsection.

### 4. Amending subsections, lettered paragraphs, subparagraphs, and other subunits.

1 Sec. \_\_\_. Section 422.5, subsection 1, unnum-  
2 bered paragraph 1, Code 20\_\_\_, is amended to read as  
3 follows:  
4 A tax is imposed upon every resident and nonresi-  
5 dent individual of the state ~~which tax shall be and is~~  
6 levied, collected, and paid annually upon and with re-  
7 spect to the entire taxable income ~~as defined in this~~  
8 ~~division~~ at rates as follows:

1 Sec. \_\_\_. Section 422.5, subsection 1, paragraphs  
2 g, h, and i, Code 20\_\_\_, are amended to read as fol-  
3 lows:

4 g. On all taxable income exceeding twenty thou-  
5 sand dollars but not exceeding ~~thirty~~ twenty-five  
6 thousand dollars, seven and fifty-five hundredths  
7 percent.

8 h. On all taxable income exceeding ~~thirty~~ twenty-  
9 five thousand dollars but not exceeding ~~forty-five~~  
10 thirty-five thousand dollars, eight and eight-tenths  
11 percent.

12 i. On all taxable income exceeding ~~forty-five~~  
13 thirty-five thousand dollars, nine and ~~ninety-eight~~  
14 hundredths one-tenth percent.

1 Sec. \_\_\_. Section 422.5, subsection 1, paragraph  
2 k, unnumbered paragraph 1, Code 20\_\_\_, is amended to  
3 read as follows:

4 There is imposed upon every resident and nonresi-  
5 dent of this state, including estates and trusts, the  
6 greater of the tax determined in

paragraphs "a"

7 through "j" or the state alternative minimum tax equal  
8 to ~~seventy-five~~ eighty percent of the maximum state  
9 individual income tax rate for the tax year, rounded  
10 to the nearest one-tenth of one percent, of the state  
11 alternative minimum taxable income of the taxpayer as  
12 computed under this paragraph.

1 Sec. \_\_\_. Section 422.5, subsection 1, paragraph  
2 k, subparagraph (1), Code 20\_\_\_, is amended to read as  
3 follows:

4 (1) Add items of tax preference included in fed-  
5 eral alternative minimum taxable income under section  
6 57, except subsections (a)(1), (a)(2), ~~and~~ (a)(5),  
7 and (a)(6), of the Internal Revenue Code, make the ad-  
8 justments included in federal alternative minimum  
9 taxable income under section 56, except subsections  
10 (a)(4), (b)(1)(C)(iii), and (d), of the Internal Rev-  
11 enue Code, and add losses as required by section 58  
12 of the Internal Revenue Code. In the case of an es-  
13 tate or trust, the items of tax preference, adjust-  
14 ments, and losses shall be apportioned between the  
15 estate or trust and the beneficiaries in accordance  
16 with rules prescribed by the director.

1 Sec. \_\_\_. Section 422.5, subsection 1, paragraph  
2 k, subparagraph (2), subparagraph subdivision (b),  
3 Code 19 \_\_\_, is amended to read as follows:

4 (b) ~~Twenty-six~~ Thirty thousand dollars for a  
5 single person or an unmarried head of household.

1 Sec. \_\_\_. Section 422.5, subsection 1, paragraph  
2 k, subparagraph (2), subparagraph subdivision (d),  
3 subparagraph subdivision part (i), Code 20\_\_\_, is  
4 amended to read as follows:

4 (i) ~~Seventy-five~~ One hundred thousand dollars in  
5 the case of a taxpayer described in subparagraph sub-  
6 division (a).

## **5. Amending a section previously amended at the same session. (Senate File 820, section 25, was enacted)**

### **Original amendment:**

1 Sec. 25. Section 135.2, Code 20\_\_\_, is amended to

2 read as follows:

3 135.2 APPOINTMENT. The governor shall, ~~within~~  
4 ~~sixty days after the convening of the general as-~~  
5 ~~sembly in 1925, and every four years thereafter, ap-~~  
6 point to a term of four years, with the approval of  
7 two-thirds of the members of subject to confirmation  
8 by the senate, a commissioner of public health who  
9 shall be qualified in the general field of health ad-  
10 ministration. Vacancies shall be filled for the unex-  
11 pired term in the same manner as regular appointments  
12 are made.

The same section might be subsequently amended in the same session as follows:

1 Sec. 13. Section 135.2, Code 20\_\_, as amended by  
2 19\_ Iowa Acts, Senate File 820, section 25, is  
3 amended to read as follows:  
4 135.2 APPOINTMENT. The governor shall appoint to  
5 a term of four years commencing and ending as pro-  
6 vided by law, subject to confirmation by the senate,  
7 a commissioner of public health who ~~shall be~~ is qual-  
8 ified in the general field of health administration.  
9 Vacancies shall be filled for the unexpired term in  
10 the same manner as regular appointments are made.

## 6. Amending session laws.

1 Sec. 3. 20\_\_ Iowa Acts, chapter 1216, section 11,  
2 is amended to read as follows:  
3 SEC. 11. Notwithstanding section 654.15, subsec-  
4 tion 2, the declaration of economic emergency made by  
5 the governor on October 1, 1985, is in effect until  
6 March 30, ~~1987~~ 1988.

## 7. Adding new law.

1 Sec. 3. NEW SECTION. 321.24A OPERATOR'S LICENSE  
2 REVOCATION.  
3 [Insert the new language without underlines.]

## 8. New subsections, paragraphs, subparagraphs, and unnumbered paragraphs.

1 Sec. 3. Section 232.18, Code 20\_\_\_, is amended by  
2 adding the following new subsection:  
3 NEW SUBSECTION. 12. [Insert the new language  
4 without underlines.]  
5 Sec. 4. Section 422.9, subsection 2, Code 20\_\_\_, is  
6 amended by adding the following new paragraph:  
7 NEW PARAGRAPH. h. [Insert the new language with-  
8 out underlines.]  
9 Sec. 5. Section 2.10, Code 20\_\_\_, is amended by  
10 adding the following new unnumbered paragraph:  
11 NEW UNNUMBERED PARAGRAPH. [Insert the new language  
12 without underlines.]

### **C. EFFECTIVE AND APPLICABILITY DATES**

1 Sec. \_\_\_\_.  
2 This Act, being deemed of immediate importance,  
3 takes effect upon enactment.

1 Sec. \_\_\_\_.  
2 This Act, being deemed of immediate importance,  
3 takes effect ten days after the date of enactment.

1 Sec. \_\_\_\_.  
2 This Act takes effect on \_\_\_\_\_.

1 Sec. \_\_\_\_.  
2 The amendments in this Act to section 554.9307,  
3 subsections 1 and 5 through 9, are applicable to se-  
4 curity interests granted on or after December 23, 5 1986.

1 Sec. \_\_\_\_.  
2 Sections 2 and 3 of this Act are retroactively ap-  
3 plicable to January 1, 1987, for property tax credit  
4 claims and special assessment claims filed on or after  
5 January 1, 1987, for taxes and special assessments  
6 payable in the fiscal year beginning July 1, 1987, and  
7 ending June 30, 1988, and in any subsequent years.  
8 Section 2 is applicable to rent reimbursement claims  
9 filed on or after January 1, 1988, for rents paid in  
10 calendar year 1987.

1 Sec. \_\_\_\_.  
2 This Act is retroactively applicable to January 1,

3 1988, and is applicable on and after that date.

## **D. REPEALS**

1 Section 1. Chapter 422, Code 20\_\_\_, is repealed.

1 Section 1. Section 320.20, Code 20\_\_\_, is repealed.

## **E. AMENDING CLAUSES FOR AMENDMENTS**

### **1. Amendment to a bill.**

1 Amend Senate File 1040 as follows:

1 Amend House File 17, as passed by the House, as  
2 follows:

1 Amend House File 481, as amended, passed, and re-  
2 printed by the House, as follows:

### **2. Amendment to an amendment.**

1 Amend amendment, H-1426, to House File 327, as fol-  
2 lows:

1 Amend amendment, S-2162, to House File 481, as  
2 amended, passed, and reprinted by the House, as fol-  
3 lows:

1 Amend the Holt amendment, SSB 142.301, to Senate  
2 Study Bill 142 as follows:

1 Amend the proposed Committee on Local Government  
2 amendment, SF 426.502, to Senate File 426, as follows:

1 Amend amendment, LSB 1042SC.403, to the proposed  
2 Committee on Energy bill, LSB 1042SC, as follows:  
3 [This amending clause will only be used in the rare  
4 situations when a proposed bill has not received a  
5 study bill number.]

1 Amend the Senate amendment, H-4212, to House File  
2 153, as amended, passed, and reprinted by the House,  
3 as follows:

1 Amend the House amendment, S-3714, to Senate File  
2 1181, as passed by the Senate, as follows:

1 Amend amendment, H-4216, to the Senate amendment,  
2 H-4212, to House File 153, as amended, passed, and re-  
3 printed by the House, as follows:

1 Amend amendment, S-3731, to the House amendment,  
2 S-3714, to Senate File 2181, as passed by the Senate,  
3 as follows:





**2. Concurrent resolution.**

1                   HOUSE CONCURRENT RESOLUTION NO. \_\_\_\_\_  
2                   BY COMMITTEE ON RULES AND ADMINISTRATION  
3 A Concurrent Resolution relating to the schedule for review for  
4 progress from the first to second step in the legislative  
5 pay matrix for employees of the General Assembly.  
6 WHEREAS, Senate Concurrent Resolution 6 provides for a re-  
7 view and progression of an employee of the General Assembly  
8 after twelve months of actual employment from step 1 to step 2  
9 on the legislative pay plan; and  
10 WHEREAS, the General Assembly now believes that a review  
11 period of six months would be more appropriate; NOW THEREFORE,  
12 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE

SENATE

13 CONCURRING, That the employees of the General Assembly may be  
14 eligible for mobility within pay steps at the discretion of the  
15 Chief Clerk of the House and the Secretary of the Senate, sub-  
16 ject to the approval of the House Committee on Rules and  
17 Administration, or the Senate Committee on Rules and Admin-  
18 istration, as appropriate -- in accord with the following  
19 schedule:  
20 1. Progression from step "1" to "2" -- six months of actual  
21 employment.  
22 2. Progression from step "2" to "3", and step "3" to "4",  
23 and step "4" to "5" -- twelve months of actual employment.  
24 3. Progression from step "5" to "6" -- twenty-four months  
25 of actual employment.

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LSB 6017H 73  
mg/jw/5

**3. Joint resolution -- Nullification of rule.**

HOUSE JOINT RESOLUTION \_\_\_\_\_  
BY [SPONSOR'S NAME]

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

**HOUSE JOINT RESOLUTION**

1 A Joint Resolution to nullify an administrative rule of the  
2 department of employment services relating to lockouts and  
3 providing an effective date.

4

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

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TLSB 2331HF 73  
mg/jw/5

S.J.R. \_\_\_\_\_ H.J.R. \_\_\_\_\_

1 Section 1. 345 Iowa administrative code, rule 4.34, subrule  
2 8, is nullified.

3 Sec. 2.

4 This joint resolution, being deemed of immediate importance,  
5 takes effect upon enactment.

6 EXPLANATION

7 This joint resolution nullifies an administrative rule of  
8 the department of employment services which provides that a  
9 lockout is a labor dispute.

10 The joint resolution is effective upon enactment.

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LSB 2331H 73  
mg/jw/5

4. Joint resolution -- Constitutional amendment.

**[First Time Passed]**

SENATE JOINT RESOLUTION \_\_\_\_\_  
BY [SPONSOR'S NAME]

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

**SENATE JOINT RESOLUTION**

1 A Joint Resolution proposing an amendment to the Constitution  
2 of the State of Iowa to allow the General Assembly to  
3 specify by law when Acts of the General Assembly take  
4 effect.

5

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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TLSB 2451SF 73  
mg/jw/5

S.J.R. \_\_\_\_\_ H.J.R. \_\_\_\_\_

1 Section 1.

2 The following amendment to the Constitution of the State of  
3 Iowa is proposed:

4 Section 26 of Article III of the Constitution of the State  
5 of Iowa, as amended by the Amendment of 1966, is repealed and  
6 the following adopted in lieu thereof:

7 "An Act of the General Assembly passed at a regular session  
8 of a General Assembly shall take effect on July 1 following its  
9 passage unless a different effective date is stated in an Act  
10 of the General Assembly. An Act passed at a special session of  
11 a General Assembly shall take effect ninety days after adjourn-  
12 ment of the special session unless a different effective date  
13 is stated in an Act of the General Assembly. The General As-  
14 sembly may establish by law a procedure for giving notice of  
15 the contents of Acts of immediate importance which become law."

16 Sec. 2.

17 The foregoing amendment to the Constitution of the State of  
18 Iowa is referred to the General Assembly to be chosen at the  
19 next general election for members of the General Assembly and  
20 the Secretary of State is directed to cause the same to be pub-  
21 lished for three consecutive months previous to the date of  
22 that election as provided by law.

23 EXPLANATION

24 This joint resolution proposes an amendment to the Constitu-  
25 tion of the State of Iowa regarding the effective dates of  
26 legislative enactments. The resolution, if adopted, would be  
27 referred to the next General Assembly for adoption before being  
28 submitted to the electorate for ratification.

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LSB 2451S 73  
mg/jw/5

**5. Joint resolution -- Constitutional amendment.**

**[Second Time Passed]**

SENATE            JOINT            RESOLUTION

\_\_\_\_\_

BY [SPONSOR'S NAME]

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

**SENATE JOINT RESOLUTION**

1 A Joint Resolution proposing an amendment to the Constitution  
2 of the State of Iowa to allow the General Assembly to  
3 specify by law when Acts of the General Assembly take  
4 effect.

5

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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TLSB 2672SF 73  
mg/jw/5

S.J.R. \_\_\_\_\_ H.J.R. \_\_\_\_\_

1 Section 1.

2 The following amendment to the Constitution of the State of  
3 Iowa is proposed:

4 Section 26 of Article III of the Constitution of the State  
5 of Iowa, as amended by the Amendment of 1966, is repealed and  
6 the following adopted in lieu thereof:

7 "An Act of the General Assembly passed at a regular session  
8 of a General Assembly shall take effect on July 1 following its  
9 passage unless a different effective date is stated in an Act  
10 of the General Assembly. An Act passed at a special session of  
11 a General Assembly shall take effect ninety days after adjourn-  
12 ment of the special session unless a different effective date  
13 is stated in an Act of the General Assembly. The General As-  
14 sembly may establish by law a procedure for giving notice of  
15 the contents of Acts of immediate importance which become law."

16 Sec. 2.

17 The foregoing proposed amendment, having been adopted and  
18 agreed to by the Seventieth General Assembly, 1984 Session,  
19 thereafter duly published, and now adopted and agreed to by the  
20 Seventy-first General Assembly in this joint resolution, shall  
21 be submitted to the people of the state of Iowa at the general  
22 election in November of the year nineteen hundred eighty-six in  
23 the manner required by the Constitution of the State of Iowa  
24 and the laws of the State of Iowa.

25 EXPLANATION

26 This joint resolution proposes an amendment to the Constitu-  
27 tion of the State of Iowa, for adoption by the second consecu-  
28 tive general assembly, regarding the effective dates of legis-  
29 lative enactments. The resolution, if adopted, would be sub-  
30 mitted to the electorate for ratification.

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LSB 2672S 73  
mg/jw/5

**6. Joint resolution -- Ratifying a proposed amendment to the United States Constitution.**

HOUSE                  JOINT                  RESOLUTION

\_\_\_\_\_

BY [SPONSOR'S NAME]

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

**HOUSE JOINT RESOLUTION**

1 A Joint Resolution ratifying a proposed amendment to the Con-  
2 stitution of the United States to provide for a delay in an  
3 increase in compensation to Members of Congress until an in-  
4 tervening election of Representatives has occurred.

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TLSB 2192HF 73  
rj/jw/5



S.J.R. \_\_\_\_\_ H.J.R. \_\_\_\_\_

1 WHEREAS, The First Congress of the United States of America,  
2 at its first session, sitting in New York, New York, on Sep-  
3 tember 25, 1789, in both houses, by a constitutional majority  
4 of two-thirds, has proposed an amendment to the Constitution of  
5 the United States of America in the following words:

6 "Resolved by the Senate and House of Representatives of the  
7 United States of America in Congress assembled two-thirds of  
8 both Houses concurring, that the following (Article) be pro-  
9 posed to the legislatures of the several states, as (an Amend-  
10 ment) to the Constitution of the United States, . . . which  
11 (Article), when ratified by three-fourths of said legislatures,  
12 to be valid to all intents and purposes, as part of the said  
13 Constitution, viz;

14 "(An Article) in addition to, and Amendment of the Constitu-  
15 tion of the United States of America, proposed by Congress, and  
16 ratified by the Legislatures of the several States, pursuant to  
17 the fifth Article of the original Constitution.

18 "ARTICLE

19 "No law, varying the compensation for the services of the  
20 Senators and Representatives, shall take effect until an elec-  
21 tion of Representatives shall have intervened."

22 WHEREAS, Article V of the Constitution of the United States  
23 allows the ratification of the proposed amendment to the United  
24 States Constitution by the General Assembly of the State of  
25 Iowa; and

26 WHEREAS, The proposed amendment to the Constitution of the  
27 United States has already been ratified by the Legislatures of  
28 the following States in the years indicated: Maryland in 1789;  
29 North Carolina in 1789; South Carolina in 1790; Delaware in  
30 Vermont in 1791; Virginia in 1791; Ohio in 1873; Wyoming in  
31 1978; Maine in 1983; Colorado in 1984; South Dakota in 1985;  
32 New Hampshire in 1985; Arizona in 1985; Tennessee in 1985;  
33 Oklahoma in 1985; New Mexico in 1986; Indiana in 1986; Utah in  
34 1986; Montana in 1987; Connecticut in 1987; Arkansas in 1987;  
35 Wisconsin in 1987; Georgia in 1988; West Virginia in 1988; and

S.J.R. \_\_\_\_\_ H.J.R. \_\_\_\_\_

1 Louisiana in 1988; and

2 WHEREAS, Article V of the Constitution of the United States  
3 does not state a time limit on ratification of an amendment  
4 submitted by Congress, and the First Congress specifically did  
5 not provide a time limit for ratification of the proposed  
6 amendment; and

7 WHEREAS, The United States Supreme Court has ruled in  
8 Coleman v. Miller, 307 U.S. 433 (1939), that an amendment to  
9 the United States Constitution may be ratified by States at any  
10 time, and Congress must then finally decide whether a reason-  
11 able time had elapsed since its submission when, in the  
12 presence of certified ratifications by three-fourths of the  
13 States, the time arrives for the promulgation of the adoption  
14 of the amendment; NOW THEREFORE,

15 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

16 That the foregoing proposed amendment to the Constitution of  
17 the United States is hereby ratified and consented to by the  
18 State of Iowa and the General Assembly thereof; and

19 BE IT FURTHER RESOLVED, That the Governor of the State of  
20 Iowa forward certified copies of this resolution over the seal  
21 of the State of Iowa to the Archivist of the United States, and  
22 to the presiding officers of the Senate and House of Represen-  
23 tatives of the United States.

24 BE IT FURTHER RESOLVED, That the General Assembly of the  
25 State of Iowa urges the State Legislatures of those States  
26 which have not done so to follow Iowa in ratifying the proposed  
27 amendment and that, as an incentive for them to do so, copies  
28 of the foregoing preamble and resolution be transmitted to  
29 those State Legislatures.

30 EXPLANATION

31 This resolution ratifies a proposed amendment to the United  
32 States Constitution providing that a law varying the compensa-  
33 tion of Congress not take effect until an election intervenes.

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LSB 2192H 73  
rj/jw/5

## G. CONFERENCE COMMITTEE REPORTS

### 1. House File.

#### REPORT OF THE CONFERENCE COMMITTEE ON HOUSE FILE 17

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 17, a bill for An Act relating to minimum wage requirements, respectfully make the following report:

1. That the House recedes from its amendment, S-3081.
2. That the Senate recedes from its amendment, H-3150.
3. That House File 17, as amended, passed, and reprinted by the House, is amended as follows:

1. Page 1, by striking lines 4 through 6, and inserting the following: "law, pursuant to 29 U.S.C. § 206, shall be increased to \$3.85 on January 1 of 1990, \$4.25 on January 1 of 1991, and \$4.65 on January 1 of 1992."

2. Page 1, by inserting after line 23 the following:

"d. An employer is not required to pay an employee the applicable minimum wage provided in paragraph "a" until the employee has completed ninety calendar days of employment with the employer. An employee who has completed ninety calendar days of employment with the employer prior to January 1 of 1990, 1991, or 1992, shall earn the applicable hourly minimum wage. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least \$3.35 as of January 1 of 1990, \$3.85 as of January 1 of 1991, and \$4.25 as of January 1 of 1992."

3. Page 1, by striking lines 25 and 26, and inserting the following: “stated in 29 U.S.C. § 213 shall apply, except that the exemption in 29 U.S.C. § 213(a)(2) shall only apply to an enterprise which is comprised of one or more retail or service establishments whose annual gross volume of sales made or business done is less than sixty percent of the amount stated in 29 U.S.C. § 203(s)(2), exclusive of excise taxes at the retail level that are separately stated.”

4. By renumbering as necessary.  
ON THE PART OF THE HOUSE:

ON THE PART OF THE SENATE:

\_\_\_\_\_  
REPRESENTATIVE, Chairperson

\_\_\_\_\_  
SENATOR, Chairperson

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REPRESENTATIVE

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REPRESENTATIVE

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SENATOR

LSB 3195CR 73  
mg/jw/5

**2. Senate File.**

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 2328

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 2328, a bill for An Act relating to the allocations and appropriations of lottery revenues and the programs for which the revenues may be used, respectfully make the following report:

1. That the conference committee is unable to agree.

ON THE PART OF THE SENATE:

ON THE PART OF THE HOUSE:

\_\_\_\_\_  
SENATOR, Chairperson

\_\_\_\_\_  
REPRESENTATIVE, Chairperson

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SENATOR

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REPRESENTATIVE

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REPRESENTATIVE

LSB 4217CR 73  
mg/jw/5

## H. BILLS

### 1. Title page and body.

\_\_\_\_\_ SENATE FILE  
BY [SPONSOR'S  
NAME]

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

### A BILL FOR

1 An Act relating to local option sales and services taxes by  
2 requiring that the notice of the ballot proposition specify  
3 the amount to be used for property tax relief and contain a  
4 statement as to the purposes for which the other revenues  
5 will be used, by providing the method for property tax re-  
6 lief, and by providing for the Act's applicability.

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

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TLSB 1066SF 73  
mg/jw/5

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 422B.1, subsection 4, Code 1989, is  
2 amended to read as follows:

3 4. The county commissioner of elections shall submit the  
4 question of imposition of a local option tax at a state general  
5 election or at a special election held at any time other than  
6 the time of a city regular election ~~which may.~~ The election  
7 shall not be held sooner than sixty days after publication of  
8 notice of the ballot proposition. The ballot proposition shall  
9 specify the type and rate of tax and in the case of a vehicle  
10 tax the classes that ~~will~~ shall be exempt and in the case of a  
11 local sales and services tax the date it ~~will~~ shall be imposed.  
12 The notice and ballot proposition shall also specify the per-  
13 centage of and the approximate dollar amount of local option  
14 tax revenues that ~~will~~ shall be used for property tax relief  
15 and shall contain a statement as to the specific purpose or  
16 purposes for which the revenues shall otherwise be expended.  
17 The rate of the vehicle tax shall be in increments of one dol-  
18 lar per vehicle as set by the petition seeking to impose the  
19 tax. The rate of a local sales and services tax shall not be  
20 more than one percent as set by the governing body. The state  
21 commissioner of elections shall establish by rule the form for  
22 the ballot proposition ~~which.~~ The form shall be uniform  
23 throughout the state.

24 Sec. 2. NEW SECTION. 422B.12 PROPERTY TAX RELIEF.

25 The financial officer of the city or county shall credit the  
26 percentage specified on the ballot proposition of the local  
27 sales and services tax revenues received to a special account  
28 for property tax relief to be granted as provided in this sec-  
29 tion. However, after the tax has been imposed for fifteen  
30 months, the amount of tax revenues received that shall be  
31 credited to this special account during each subsequent year  
32 shall not exceed the amount credited to the special account  
33 during the first fifteen months.

34 Before the levy rates authorized under sections 384.1 and  
35 384.12 are certified by a city to the county auditor, or in the

1 case of the county, before the levy rates authorized under sec-  
2 tion 331.423, subsection 2, and section 331.424, subsection 2,  
3 are certified, the certifying official shall subtract from the  
4 total amount computed in dollars, as provided in section 444.2,  
5 an amount equal to the amount credited to the special account  
6 for property tax relief during the last preceding twelve-month  
7 period and shall certify only the net amount. The certifying  
8 official shall identify for what purposes the funds received  
9 for property tax relief are to be used. The county auditor  
10 shall determine the levy rates under section 444.3 upon the net  
11 amount so computed.

12 Sec. 3. Section 444.3, Code 1989, is amended by adding the  
13 following new unnumbered paragraph after unnumbered para-  
14 graph 1:

15 NEW UNNUMBERED PARAGRAPH. However, in computing the tax  
16 rate for a city or county which has imposed a local option  
17 sales or services tax authorized in chapter 422B, the county  
18 auditor shall determine if the sum of the net amount certified  
19 and the amount deducted in determining that net amount under  
20 section 422B.11 exceeds the amount which may be raised by the  
21 rate authorized by law. If the county auditor determines that  
22 this sum exceeds that amount, the county auditor shall reduce  
23 the net amount certified by the excess and determine the tax  
24 rate on this reduced amount.

26 Sec. 4.

27 This Act applies to local option sales and services taxes  
27 imposed as a result of an election held after the effective  
28 date of this Act.

#### 29 EXPLANATION

30 The bill provides that the notice of the ballot proposition  
31 as well as the ballot proposition specify the percentage and  
32 approximate dollar amount of the local option sales and ser-  
33 vices tax revenues which will be used for property tax relief.  
34 This property tax relief will result in a lowering of the gen-  
35 eral fund levy limits for the purposes for which the revenues



S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 are to be used.

2 The bill is applicable to local option sales and services  
3 taxes imposed as a result of an election held after the effec-  
4 tive date of the bill.

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LSB 1066S 73  
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## 2. Example of Background Statement.

[Explanation drafted by Legislative Services Agency; background statement drafted by agency]

8 EXPLANATION

9 The bill provides for the staggered registration of air-  
10 craft. The bill also increases the minimum aircraft registra-  
11 tion fee from fifteen dollars to thirty-five dollars. The bill  
12 also provides that hot-air balloons shall be registered at the  
13 minimum fee of thirty-five dollars.

14 BACKGROUND STATEMENT  
15 SUBMITTED BY THE AGENCY

16 This bill does several things:

17 It institutes a "staggered registration" system for air-  
18 craft. The department registers almost 3,000 aircraft an-  
19 nually. However, all registrations come due in the same month.  
20 Changing to a staggered system would create a more even work-  
21 load and allow more efficient use of staff.

22 It increases the minimum fee to register an aircraft. The  
23 minimum fee to register an aircraft is now \$15 and has not been  
24 changed in years. The bill increases that minimum to \$35.

25 It establishes a minimum refund for the unexpired portion of  
26 an aircraft registration fee. There is no minimum refund  
27 specified which means that, on occasion, the cost to process  
28 the refund is more than the refund itself. This bill sets a  
29 minimum refund at \$35.

30 It clarifies that Iowa-based hot-air balloons are subject to  
31 the minimum registration fee.

32 It defines "owner" in the aviation chapter of the Code. Al-  
33 though the term "owner" is used in the aviation chapter of the  
34 Code, there is no definition which specifies exactly what an  
35 owner is. This bill corrects that omission.

LSB 7351DS 73

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## I. COURT RULES

**Court rules may generally be amended as a statute would be amended.**

### **Example:**

- 1 Section 1. Rule of criminal procedure 26, subsection 1,
- 2 Iowa court rules, third edition, is amended to read as follows:

3 1. REPRESENTATION. Every defendant, who is an indigent  
4 person as defined in Iowa Code section 815.9 or as otherwise  
5 defined by a rule of criminal procedure, is entitled to have  
6 counsel appointed to represent the defendant at every stage of  
7 the proceedings from the defendant's initial appearance before  
8 the magistrate or the court through appeal, including probation  
9 and parole revocation hearings, unless the defendant waives  
10 ~~such~~ appointment of counsel.

## **APPENDIX II -- DRAFTING CONFERENCE COMMITTEE REPORTS**

### **A. CONTENTS**

Conference Committee Reports must contain the following elements:

#### **1. Title.**

The title simply states that the document is a report of a conference committee on a named Senate or House File. If the conference committee is not the first conference committee appointed, the title should so indicate. For example:

REPORT OF THE (SECOND) CONFERENCE COMMITTEE ON HOUSE FILE 2454

#### **2. Introduction.**

The introduction directs the report to the officers of the two houses, refers to the appointment of the conference committee, names the bill by number, and includes the entire bill title (the title to the bill as introduced, or if amended in the house of origin, the title to the bill as reprinted). If the conference committee is not the first conference committee appointed, the introduction should so indicate. For example:

To the President of the Senate and the Speaker of the House of Representatives:

We the undersigned members of the (second) conference committee appointed to revolve the differences between the Senate and House of Representatives on House File 2454, a bill for an Act relating to a child in need of services, . . ., respectfully make the following report:

### 3. Report of the Conference Committee on the Bill.

The report either communicates that the conferees have failed to reach an agreement or sets out actions which are proposed as a final agreement on the differences between the Senate and House on the bill. A failure to agree is stated as such, while proposed agreements are drafted technically as amendments. Any amendments within the scope of the title of the bill, as passed by the house of origin or as amended by the other house, may be considered by the conference committee.

The following reports are common examples of conference committee reports:

a. Failure to Agree.

(1) That the Senate and House conferees have failed to reach an agreement.

b. Both Houses Recede.

(1) That the House recedes from its amendment, S-5782.

(2) That the Senate recedes from its amendment, H-5838.

(3) That House File 2454, as amended, passed, and reprinted by the House, is amended as follows: (This form amends the House bill as messaged to the Senate, either the initially unamended, introduced House bill or more commonly, the reprinted, pink copy of the House bill.)

c. One House Recedes.

(1) That the House recedes from its amendment, S-5782.

(2) That the Senate amendment, H-5838, to House File 2454, as amended, passed, and reprinted by the House, is amended as follows: (This form nullifies the last amendment, the House amendment to the Senate amendment, and amends the Senate amendment to the House bill.)

### 4. Signatures.

The signature lines should be typed on the last page of the report, with the signatures of the members of the house of origin on the left and the signatures of the members of the other house on the right, with the respective chairpersons listed first and the remainder of the members listed in alphabetical order. The full name of both Senate and House members should be used. For example:

ON THE PART OF THE HOUSE:

ON THE PART OF THE SENATE:

---

---

MARK A. HAVERLAND, Chairperson

JOHN JENSEN, Chairperson

---

FLORENCE D. BUHR

---

JULIA GENTLEMAN

## **B. PROCEDURES**

### **1. Copies.**

Thirty (30) copies of conference committee reports should be made and distributed by the drafter as follows:

- a. Two (2) copies must be signed by the concurring members from both houses, with one signed copy filed with each house.
- b. Fourteen (14) copies, seven (7) for each house, must be filed with the signed copies.
- c. Ten (10) copies must be provided to the ten conferees.
- d. One (1) copy is provided for the drafter.
- e. Three (3) copies should be retained with the original.

### **2. Signatures and Filing of Report.**

The drafter should ask the chairpersons if they would like the drafter to ask each of the ten members to sign the two copies of the report. This is preferable in most situations since the chairpersons are often easily distracted. If the drafter is to obtain the signatures, the drafter should immediately attempt to secure all signatures and, if all signatures are obtained and the chairpersons wish no delay, the drafter should deliver one signed copy to the well of each house.

If all signatures are not obtained, the drafter should alert the chairpersons of that fact and follow the instructions of the chairpersons in either delivering the copies to the wells without the signatures of all conferees or giving the chairpersons the copies to allow them to attempt to secure the signatures and to deliver the signed copies to the wells.

A minimum of six conferees, three from each house, must sign the report before the report can be considered by either house. Refer to Joint Rules 12 and 13 in Appendix V for additional procedural rules which apply to the consideration of conference committee reports.

### **3. Legal Counsel Approval.**

An important consideration in handling a conference committee report is the need for the Senate and House legal counsels' offices to approve the report for filing, as an amendment is approved for filing, even though the report is technically filed at the well rather than through the legal counsel' offices. In most situations it is preferable to furnish both legal counsels' offices with two copies each of the unsigned conference committee report so that any legal counsel corrections can be made as soon as possible.

### **4. Staffing of Conference Committee Meeting.**

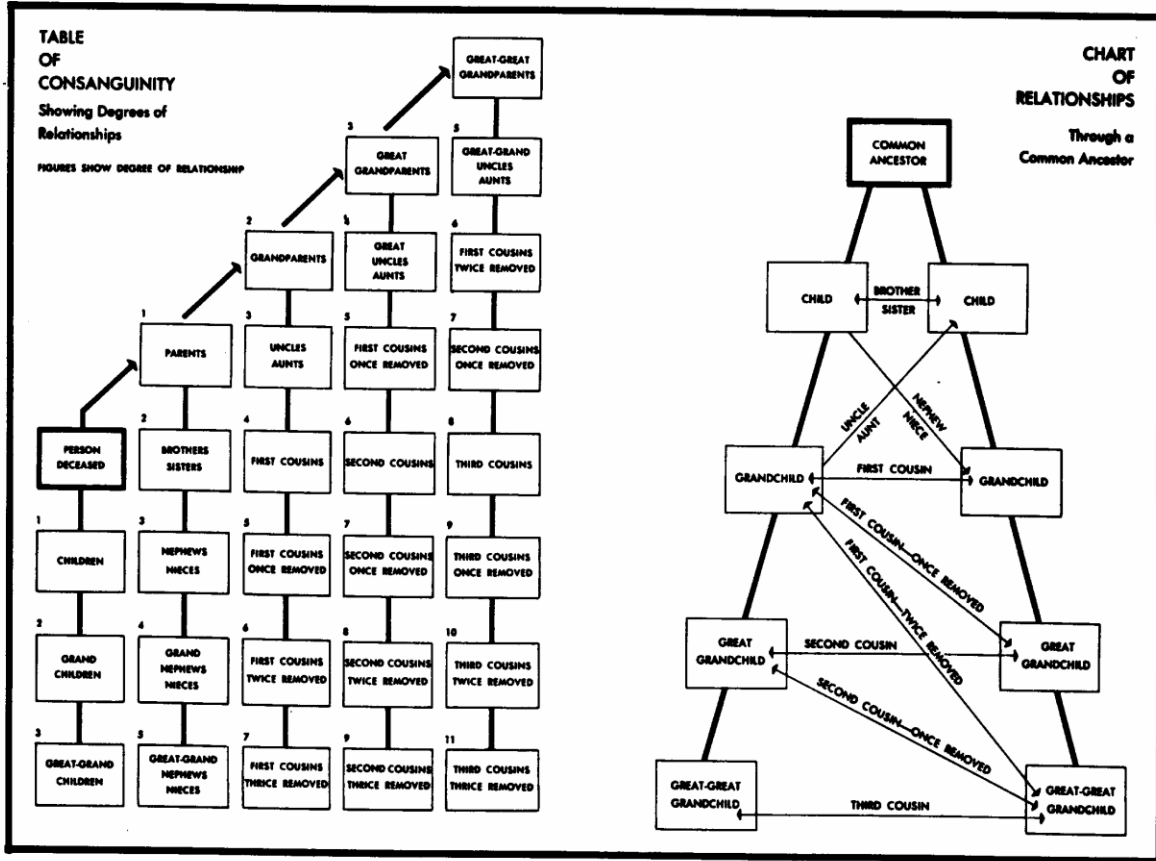
The drafter should attempt to always have a second LSB staffer attend each meeting of the conference committee with the drafter. This is essential so that the second staffer can accurately record any drafting instructions if the drafter is distracted for any reason during the meeting.

The drafter should also confer with the Co-chairpersons prior to the meeting and request that the drafter be allowed to summarize any drafting instructions prior to the end of the meeting. This will allow conference committee members to hear a summary of committee drafting instructions from which the drafter will prepare the conference committee report. It will also allow members to correct the drafting instructions if they are inadequate or incomplete.

The drafter should inquire about the time frame for completion of the conference committee report and inform the committee that the report must be reviewed internally in the Legislative Services Agency and preferably also by both the Senate and House legal counsels' offices before any signatures are obtained. The drafter should give the committee a realistic estimate of the time frame necessary for completion and review of the report and if in doubt, a longer rather than shorter turnaround time should be given.

Examples of conference committee reports are contained in Appendix I.

# APPENDIX III -- CIVIL LAW CONSANGUINITY CHART



## APPENDIX IV -- BILL REVIEW CHECKLIST AND GUIDELINES FOR DRAFTERS AND REVIEWERS

(Reviewer should place a long dash ( ) in the left margin beside each line of the bill which contains a correction. The reviewer should green ink, the proofreaders should use red ink, and the drafters should use a different color.

### A. CHECKLIST

**(For more details see Guidelines or Iowa Bill Drafting Guide and Style Manual.)**

1. Scan Title and Explanation for overview.
  - a. Does title reflect one subject?
  - b. Constitutional questions?
2. Lead-ins--for sections amending Code.
  - a. Accuracy.
  - b. Form. (See list of computer-readable lead-in forms.)
3. Form of bill.
  - a. All permanent new sections numbered.
    - (1) Do not reuse repealed number in same session.
    - (2) Is Code placement correct?
    - (3) Definitions should be alphabetized.
  - b. All new sections or parts of sections marked "NEW \_\_\_\_\_."
  - c. Generally, substantive provisions first, followed by conforming amendments in numerical order.
  - d. Repeals after conforming amendments:



- (1) Strikes in numerical order with other amendments.
  - (2) Separate repeals of Code and Code Supplement sections. (even-numbered years)
- e. Temporary sections after repeals.
  - f. Effective date and applicability sections last.
4. Read for Content. (Goals: clear, complete, concise, precise).
- a. Clarity.
    - (1) Definitions correctly written and used.
    - (2) Correct placement of modifiers (if several, avoid ambiguity as to what is modified).
    - (3) No circularity.
    - (4) Avoid multiple negatives and multiple exceptions, if possible.
  - b. Style preferences.
    - (1) Present tense. ("Pari-mutuel gambling is legal"; not "Pari-mutuel gambling shall be legal")
    - (2) Active voice. ("The director shall purchase"; not "It shall be purchased by the director")
    - (3) Positive. ("A person shall not"; not "No person shall") (avoid "may not")
    - (4) Singular/plural--consistent within a sentence-singular usually preferable.
    - (5) Simplicity (concise-precise). Word usage and sentence construction. Omit excess and meaningless words and phrases ("such", "said", "heretofore or hereafter", "person, firm, or corporation", "any other law to the contrary notwithstanding").
    - (6) Sentences and paragraphs short to moderate in length--divided into subparts if necessary for clarity.
    - (7) No gender pronouns. (Note: to avoid "himself" or "herself", the word "themselves" may be used with an indefinite third person singular antecedent as "anyone", "a person".)
  - c. Accuracy.
    - (1) Check new internal references.

(2) Citations of federal laws and regulations, administrative rules. (Drafter should be responsible for accuracy; check form.)

(3) Check references to departmental and official names and titles.

d. Headnotes of sections, new or amended, should briefly and accurately reflect content.

e. Watch for constitutionally sensitive areas.

(1) One subject.

(2) Overdelegation of power.

(3) Separation of powers.

(4) Private use of public resources ("Credit of the state").

(5) Taxes clearly stated and uniform.

(6) Vagueness (especially criminal law).

(7) Equal protection and due process.

f. Capitalization of appropriate nouns.

g. Punctuation--limited to that which is essential.

(1) Use comma before conjunction in a series.

(2) Follow red Webster's 9th (based on Webster's Third International), or if not covered there, Government Style Manual. (Style rules at back of Webster's)

h. Related laws considered--conforming amendments if needed.

i. Repeals and strikes: check internal reference table for sections which need conforming amendments.

j. Orderly arrangement of substantive sections.

5. Read Explanation for Content.

a. Should be accurate, concise, complete, and objective. Avoid statements of opinion ("this bill is intended to clarify" is better than "this bill clarifies"; avoid "will help",

"is needed", etc.--state what the bill does, not why it is needed (exception if it is something factual, like a court case).

b. Mention:

(1) New sections, tentatively numbered.

(2) Unusual effective or applicability dates.

(3) Penalties.

(4) State mandates--see section 25B.5.

6. Read Title for Content.

a. One subject--expressive of entire bill?

b. If detailed (a "tight" title), no part may be omitted.

c. Mention penalties, unusual effective dates, applicability provisions, the imposition of a tax, and appropriations.

d. We generally do not use section or chapter numbers in titles.

## **B. GUIDELINES FOR USE OF SPECIFIC PROVISIONS**

1. "Purposes" section. Generally is not needed; if desired, it can usually be a temporary, uncodified section. An exception may be made if there is a potential constitutional problem, such as where public purpose or equal protection might be challenged.

2. Definitions.

a. Should precede related material.

b. Limit--should not include other substantive law.

c. Use to avoid repetition of a longer phrase; then be sure to use the definition subsequently, not the phrase defined.

d. "Means" is complete; other meanings are excluded.

e. "Includes" is incomplete; there may be other meanings. (Therefore, "means and includes" is ambiguous.)

f. Do not stretch definitions too far (for example, including "state" in a definition of "Municipality").

g. Do not rely on a definition where it is not applicable, such as in other parts of the Code or temporary sections.

h. Do not use a term in the definition of itself. (Yes, it happens!)

3. Uncodified, temporary sections. (These may often be combined.)

a. Savings or "grandfather" clauses. See section 4.13; other specifics may be needed.

b. Transitions. For example, initial terms of office which are exemptions to the regular terms.

c. Severability. Generally not needed; see section 4.12.

d. Sunsets. If requested. May cause confusion later; consider how conforming amendments will be handled when substantive provisions sunset--it may not work for them to go back to the form they had before enactment of the sunsetted provisions, if there have been further amendments in the meantime.

e. Applicability. Often needed when new law interrupts an ongoing process, such as taxation, probate, or criminal procedure processes.

f. Effective date. Will be prospective unless retroactivity is stated. (For retroactivity and applicability, consider constitutional issues, such as impairment of contracts, ex post facto laws.)

4. Adoption of Federal Laws by Reference. It is generally held to be unconstitutional to adopt by reference any future enactments, federal or other. However, it is often a requirement that state laws comply with federal laws and regulations. Therefore, it is probably best not to use words such as "as amended" unless it is acceptable to adopt amendments only to the date the bill is effective or earlier. This will require frequent updating of the law. For this reason, it may be better to leave details which must comply with federal regulations to be written into administrative rules which are updated more frequently. We use the "Uniform System of Citation, Thirteenth Edition" to cite federal laws but we leave the date off. Use a U.S.C. citation if possible. If the law is just referred to, not adopted by reference, a citation may not be needed; a general reference may be made to some, such as Social Security, which are difficult to cite accurately.

5. Penalties. Should be stated clearly. See sections 701.2, 701.7, 701.8, 701.10, 902.1, and 902.9. It is best to stay within the framework of the criminal code, and not invent different categories.

If a violation of an administrative rule is to be a crime, or incur a penalty, it should be so stated in the statute.

If civil, use "civil penalty", not "civil fine". Designate whether it goes into the general fund or otherwise.

6. References to "this Act". Use with care; they become ambiguous or unclear if there are subsequent amendments, or if the Act amends different parts of the Code. ("Effective date of this Act" is OK if there is only one.)

7. Rulemaking Power. Parameters/standards should be specified; however, they can be brief. The courts tend to uphold these delegations.

If someone is entitled to review rules or actions, state clearly what authority is intended. For example, "shall review and approve" means, if taken literally, that there is no option to disapprove. Usually the intent is "shall review, and may affirm, reverse, or amend".

If violation of a rule is to be punishable as a crime, the statute must so state.

8. Use of "shall", "may", etc. See section 4.1. "Shall" is a command or direction. "May" is a permission or option. ("Must" is also correct for a requirement which does not direct a person; however, we have not used it consistently as it seems difficult to make the correct distinction.)

"May not" -it has been considered ambiguous, so we should use "shall not".

"Shall be" suggests the future tense, which is generally undesirable. If a present tense "be" verb can be substituted ("is", "are"), do so. Sometimes it is necessary to use "shall be" or "must be" for a passive command or requirement (something "shall be" done).

Do not use "shall receive" or "may receive" for expenses, per diem, etc. Their meaning is not clear. "Is entitled to receive" is better.

9. Executive Branch Organization. Use uniform terminology as provided in sections 7E.2 and 7E.4 if possible. Consider section 7E.3. Amend sections 7E.5, 7E.6, and 7E.7 if necessary. It is best to state duties with the verb "shall" and powers with the verb "may". It is ambiguous if they are mixed up in one "authority" statement.

10. Appropriations. If possible, state whether auxiliary provisions apply only to the appropriation year, or are meant to be more permanent, especially when they are written as separate sections rather than within the section which makes the

appropriation. If the provisions are meant to be permanent, they should be codified and indicated as "NEW SECTION."

11. Specific Code Sections and Chapters the Drafter Should Know. (Sometimes these may be incorporated by reference rather than repeating their subject matter--these sections and chapters may affect various other laws):

1C Public holidays

2.32 Senate confirmation

2B.13 Code Editor's authority

3.3 Headnotes

3.7 Effective dates

3.12, 3.14 Appropriations

4.1 Rules for construction (include definitions such as "person"; "property"; "quorum"; "rule"; and "shall", "must", and "may")

4.2-4.11 Statutory construction/conflicts

4.12 Severability

4.13 Savings provisions

7A Official reports and documents

7E Uniform terminology

12C Deposit of public funds

17A Administrative procedure

18.12 Blanket bonds for officers

19A Personnel--merit system

21 Open meetings

22 Public (and confidential) records

23 Public contracts and bonds

25B State mandates

28E Joint exercise of governmental powers

28F Joint financing of public works and facilities

35C Veterans preference

39.3 Election laws definitions

63A Administration of oaths

64-71 Various provisions relating to public officers

69.19 Terms

70A Salaries, fees, mileage, etc.

71 Nepotism

72 Duties relating to public contracts

73 Preferences

73A Official reports and documents

74A Interest rates

75, 76 Public bonds

97A Public safety peace officers' retirement

97B IPERS

103A, 104A State building code, handicapped entrances

159.1 Agriculture definitions

189.1 Food and drug regulation definitions

272C Continuing education--professions, occupations

331 County home rule

362, 364 City home rule--definitions--powers

411 Police and fire retirement  
473A Metropolitan or regional planning commissions  
490 Business corporation law (new)  
585 Legalizing Acts  
618 Publication and posting of notices  
669 State tort claims  
670 Tort liability of governmental subdivisions  
701, 702 Criminal law--general provisions and definitions  
902, 903 Felonies and misdemeanors

## **APPENDIX V -- BILL LEAD-IN FORMATS COMPATIBLE WITH COMPUTER PROGRAMS**

This summary provides standard bill lead-in language that is compatible with the computer programs used in Code publication.

### **A. LEAD-IN KEYWORDS AND SYNTAX**

The lead-in of a bill section (functional description) is all data located after the tilde-I-Section (or tilde-I-Sec.) and ending with the next tilde-I sequence. ("Tilde-I" is a paragraph indentation symbol.)

### **B. DESIRABLE LEAD-IN FORMATS**

#### 1. Various Acceptable Formats:

##### (a)

1 Sec. \_\_\_\_\_. Sections \_\_\_\_ through \_\_\_\_ of this Act are created  
2 as a new division \_\_\_\_, of chapter \_\_\_\_\_. (or subchapter, part, or 3 article)

##### (b)

1 Sec. \_\_\_\_\_. Chapter \_\_\_\_, Code 20\_\_\_\_, is repealed. (struck or



2 stricken are acceptable to computer, but not preferred drafting  
3 style)

(c)

1 Sec. \_\_\_\_\_. Chapters \_\_\_\_, \_\_\_\_, \_\_\_\_, and \_\_\_\_, Code 20\_\_\_\_, are  
2 repealed.

(d)

1 Sec. \_\_\_\_\_. Section(s) \_\_\_\_, Code 20\_\_\_\_, is (are) repealed.

(e)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_\_\_, is amended to read as fol-  
2 lows:

(f)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_\_\_, is amended by striking the  
2 section and inserting in lieu thereof the following:

## 2. Descriptions of Units of Existing Law:

The following units show the various parts of sections which may be dealt with in bills.

To be sure the computer will read all the parts accurately, it is best to avoid including unnumbered paragraphs between other parts; rather, start a new section.

**Example:** not "subsection 2, unnumbered paragraph 1 and paragraphs a, b, and c." Instead, separate into two bill sections: ". . . . subsection 2, unnumbered paragraph 1"; and ". . . . subsection 2, paragraphs a, b, and c".

(a)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, article \_\_\_\_,

(b)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, subsection(s) \_\_\_\_,

(c)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, subsection \_\_\_\_, paragraph(s) \_\_\_\_,

(d)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, subsection \_\_\_\_, paragraph \_\_\_\_, sub-  
2 paragraph(s) \_\_\_\_,

(e)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, subsection \_\_\_\_, paragraph \_\_\_\_, sub-  
2 paragraph \_\_\_\_, subparagraph subdivision(s) \_\_\_\_, (rarely: sub-  
3 paragraph subdivision part)

(f) 1

Sec. \_\_\_\_\_. Section \_\_\_\_, unnumbered paragraph(s) \_\_\_\_, (any of  
2 the units from (a) through (e) may be more particular by speci-  
3 fying: unnumbered paragraph(s) \_\_\_\_, or articles before subsec-  
4 tions (these are rare)

(g)

Any of the units from (a) through (e) may continue:

1 is (are) amended to read as follows:

1 is (are) amended by striking the (unit).

1 is (are) amended by striking the (unit) and inserting in lieu  
2 thereof the following:

3. Descriptions of Units of New Law:

(a)

1 Sec. \_\_\_\_ NEW SECTION. xxx.xx (Headnote).

(b)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_, is amended by adding the  
2 following new article: (these are rare)  
3 NEW ARTICLE.

(c)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_, is amended by adding the  
2 following new subsection:  
3 NEW SUBSECTION.

(d)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, subsection \_\_\_\_, Code 20\_\_, is amended  
2 by adding the following new paragraph:  
3 NEW PARAGRAPH.

(e)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, subsection \_\_\_\_, paragraph \_\_\_\_, Code  
2 20\_\_, is amended by adding the following new subparagraph:  
3 NEW SUBPARAGRAPH.

Preferably stop here, but if necessary, the following forms may be used:

(f)

1 Sec. \_\_\_\_ Section \_\_\_\_, subsection \_\_\_\_, paragraph \_\_\_\_, sub-  
2 paragraph, Code 1989, is amended by adding the following new  
3 subparagraph subdivision:  
4 NEW SUBPARAGRAPH SUBDIVISION.

(g)

1 Sec. \_\_\_\_ Section \_\_\_\_, subsection \_\_\_\_, paragraph \_\_\_\_, sub-  
2 paragraph \_\_\_\_, subparagraph subdivision \_\_\_\_, Code 20\_\_, is  
3 amended by adding the following new subparagraph subdivision  
4 part:  
5 NEW SUBPARAGRAPH SUBDIVISION PART. (Avoid using if possible.)

(h)

1 Sec. \_\_\_\_ Section \_\_\_\_, subsection \_\_\_\_, paragraph \_\_\_\_, sub-  
2 paragraph \_\_\_\_, subparagraph subdivision \_\_\_\_, Code 20\_\_, is  
3 amended by adding the following new unnumbered paragraph:  
4 NEW UNNUMBERED PARAGRAPH. (May be added at any level, but  
5 avoid if numbering or lettering can be done.)

## C. RECAP OF SECTION BREAKDOWN

### Name Example

Section 422.5 Subsection 1. Paragraph k. Subparagraph (2) Subparagraph  
subdivision (d) Subparagraph subdivision part (ii)

Unnumbered paragraphs are possible at any level ("unnumbered" includes  
"unlettered").

**Note.** UCC and compacts will not necessarily follow this system.

## D. CODE SUPPLEMENT

In even-numbered years, "Code Supplement 20\_\_" may need to be cited instead of  
"Code 20\_\_".

## E. SPECIAL HANDLING

-Citations of Session Laws:

(a)

1 Sec. \_\_\_\_\_. 20\_\_ Iowa Acts, chapter \_\_\_\_, section \_\_\_\_, (if a  
2 prior year). If chapter number is not known, use bill file num-  
3 ber.

(b)

1 Sec. \_\_\_\_\_. 20\_\_ Iowa Acts, House File \_\_\_\_, section \_\_\_\_, (if  
2 current year)

1 Sec. \_\_\_\_\_. 20\_\_ Iowa Acts, Senate File \_\_\_\_, section \_\_\_\_, (if  
2 current year)

(c)

1 Sec. \_\_\_\_\_. 20\_\_ Iowa Acts, chapter \_\_\_\_, section \_\_\_\_, amending  
2 section \_\_\_\_, Code 20\_\_.

(d)

1 Sec. \_\_\_\_\_. 20\_\_ Iowa Acts, House File \_\_\_\_, section \_\_\_\_, amend-  
2 ing section \_\_\_\_, Code 20\_\_.

1 Sec. \_\_\_\_\_. 20\_\_ Iowa Acts, Senate File \_\_\_\_, section \_\_\_\_, amend-  
2 ing section \_\_\_\_, Code 20\_\_.

(e)

1 Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_, as amended (enacted) by  
2 20\_\_ Iowa Acts, chapter \_\_\_\_, section \_\_\_\_,

1

Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_, as amended (enacted) by  
2 20\_\_ Iowa Acts, House File \_\_\_\_, section \_\_\_\_,

1 Sec. \_\_\_\_\_. Section \_\_\_\_, Code 20\_\_, as amended (enacted) by  
2 20\_\_ Iowa Acts, Senate File \_\_\_\_, section \_\_\_\_,

(f)

Units (a) through (e) are to be used in combination with the following:

1 is (are) amended to read as follows:

1 is (are) amended by adding the following new (unit):

1 is (are) amended by striking the (unit).

1 is (are) amended by striking the (unit) and inserting in lieu

2 thereof the following:

1 is (are) repealed.

## **F. MULTIPLE REPEALS**

In the form of the lead-in formats: "B.1.(b), (c), and (d)" and "E.(a) through (e)". Multiple repeals of chapters and sections in the Code, Code Supplement, and Iowa Acts should all be separated into sections or at least subsections.

### **Examples.**

(a)

1 Sec. \_\_\_\_ REPEALS.

2 Section \_\_\_\_, Code 20\_\_, is repealed.

(b)

1 Sec. \_\_\_\_ REPEALS.

2 Chapter \_\_\_\_, Code 20\_\_, is repealed.

(c)

1 Sec. \_\_\_\_ REPEALS.

2 Sections \_\_\_\_ through \_\_\_\_, Code Supplement 20\_\_, are repealed.

(d)

1 Sec. \_\_\_\_ REPEALS.

2 20\_\_ Iowa Acts, chapter \_\_\_\_, section \_\_\_\_, is repealed.

## **G. UNITS OF CODE SECTIONS IN ONE BILL SECTION**

More than one section part may be included in a single section of a bill. However, to avoid confusing the reader and the computer, do not combine unnumbered paragraphs unless they are consecutive; and do not combine unnumbered paragraphs which are not consecutive with numbered or lettered parts.

Example: Combining subsections 2 and 4 should not be confusing; but combining subsection 3 and unnumbered paragraph 2, when a subsection 4 is between them, is confusing because they will appear to be consecutive unless the reader refers to the Code.