

State of Iowa

1985

# ACTS AND JOINT RESOLUTIONS

PASSED AT THE

**1985 REGULAR SESSION**

OF THE

**Seventy-first General Assembly**

OF THE

**STATE OF IOWA**



**JOANN BROWN**  
ACTING CODE EDITOR

**PHYLLIS BARRY**  
DEPUTY CODE EDITOR

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# CERTIFICATE

STATE OF IOWA  
Office of Code Editor

We, Burnette E. Koebernick, Acting Director, Legislative Service Bureau, JoAnn Brown, Acting Code Editor, and Phyllis Barry, Deputy Code Editor, of the Code of Iowa, certify that the Acts, laws, joint resolutions and the certificates by the Secretary of State of their publication or filing contained in this volume have been prepared from the original enrolled Acts on file in the office of the Secretary of State, are correct copies of those Acts published under the authority of the statutes of this state, and constitute the Acts, laws and joint resolutions of the 1985 Regular Session of the Seventy-first General Assembly of the State of Iowa.

*Burnette E. Koebernick*

*Jo Ann Brown*

*Phyllis Barry*

May 1985

Section 622.59 of the 1985 Code of Iowa is as follows:

“Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.”

## EDITOR'S NOTE

The Acts and Resolutions of the 1985 Regular Session of the Seventy-first General Assembly have been printed in this book exactly as they appear on file in the office of the Secretary of State. No attempt has been made to correct misspelled words or errors in punctuation, if any.

**Underlines indicate new material added to existing statutes; strike-through letters indicate deleted material.**

**Code numbers assigned to new sections are temporary and may be changed when the 1985 Code Supplement or 1987 Code is published.**





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## STATE ROSTER

List of elective state officers, judges of the supreme and appellate courts, and members of the General Assembly, the State of Iowa, inserted in the published volume of 1985 Session Laws for the Seventy-first General Assembly in accordance with the requirements of Iowa Code section 14.10(4), 1985.

### ELECTIVE OFFICERS

Name and Office

County from which  
originally chosen

#### GOVERNOR

TERRY E. BRANSTAD ..... Winnebago  
 Doug Gross, Executive Assistant ..... Polk

#### LIEUTENANT GOVERNOR

ROBERT T. ANDERSON ..... Jasper

#### SECRETARY OF STATE

MARY JANE ODELL ..... Polk  
 Sandra Steinbach, Director of Elections ..... Polk  
 Harry Davis, Director of Uniform Commercial Code ..... Polk  
 Michael Burdette, Director of Corporations ..... Warren

#### AUDITOR OF STATE

RICHARD D. JOHNSON ..... Polk  
 Richard C. Fish, Deputy - Administration ..... Polk  
 Warren G. Jenkins, Deputy - Local Government Audit Division ..... Polk  
 Kasey K. Kiplinger, Deputy - State Audit Division ..... Polk  
 William A. Hawthorne, Acting Director -  
 Financial Institutions Division ..... Polk  
 Gregg A. Barcus, Executive Assistant ..... Polk

#### TREASURER OF STATE

MICHAEL L. FITZGERALD ..... Polk  
 Michael Tramontina, Deputy Treasurer ..... Polk  
 Steven F. Miller, Deputy Treasurer ..... Polk  
 Lawrence D. Thornton, Deputy Treasurer ..... Polk

#### SECRETARY OF AGRICULTURE

ROBERT H. LOUNSBERRY ..... Story  
 Thatcher Johnson, Deputy Secretary ..... Boone  
 Elizabeth Duncan, Deputy-Regulatory ..... Dallas

#### ATTORNEY GENERAL

THOMAS J. MILLER ..... Clayton  
 Earl Willits, Deputy Attorney General ..... Polk  
 Brent Appel, Deputy Attorney General ..... Dubuque  
 Elizabeth Osenbaugh, Deputy Attorney General ..... Polk

**JUDICIAL DEPARTMENT**  
**JUSTICES OF THE SUPREME COURT**  
 (Justices listed according to seniority)

Name	Office Address	Term Ending
Harvey Uhlenhopp .....	Hampton .....	Dec. 31, 1988
W. Ward Reynoldson, C.J. ....	Des Moines .....	Dec. 31, 1988
David Harris .....	Jefferson .....	Dec. 31, 1990
Mark McCormick .....	Des Moines .....	Dec. 31, 1990
A. A. McGiverin .....	Ottumwa .....	Dec. 31, 1988
Jerry L. Larson .....	Harlan .....	Dec. 31, 1988
Louis W. Schultz .....	Iowa City .....	Dec. 31, 1990
James H. Carter .....	Cedar Rapids .....	Dec. 31, 1992
Charles R. Wolle .....	Sioux City .....	Dec. 31, 1992

**JUDGES OF THE COURT OF APPEALS**  
 (Judges listed according to seniority)

Allen L. Donielson .....	Des Moines .....	Dec. 31, 1989
Bruce M. Snell, Jr. ....	Ida Grove .....	Dec. 31, 1990
Leo E. Oxberger, C.J. ....	Des Moines .....	Dec. 31, 1989
Dick Schlegel .....	Ottumwa .....	Dec. 31, 1990
Maynard Hayden .....	Indianola .....	Dec. 31, 1990
Rosemary Shaw Sackett .....	Spencer .....	Dec. 31, 1990

# CONGRESSIONAL DIRECTORY

## UNITED STATES SENATORS

Charles E. Grassley, New Hartford .....	Jan. 3, 1987
Tom Harkin, Cumming .....	Jan. 3, 1991

## UNITED STATES REPRESENTATIVES

### District

1 James Leach, Davenport .....	Jan. 3, 1987
2 Tom Tauke, Dubuque .....	Jan. 3, 1987
3 Cooper Evans, Grundy Center .....	Jan. 3, 1987
4 Neal Smith, Altoona .....	Jan. 3, 1987
5 Jim Ross Lightfoot, Shenandoah .....	Jan. 3, 1987
6 Berkley Bedell, Spirit Lake .....	Jan. 3, 1987

GENERAL ASSEMBLY

MEMBERS OF THE SENATE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Boswell, Leonard L.	Davis City	50	Farmer	46th—Adair, Adams, Cass, Clarke, Decatur, Ringgold, Taylor, Union	None
Brown, Joe	Montezuma	33	Public Sector Analyst —Sperry Computer Corp.	27th—Iowa, Johnson, Poweshiek	68, 69, 69X, 69XX, 70
Bruner, Charles H.	Ames	36		37th—Story	68, 69, 69X, 69XX, 70
Carr, Bob	Dubuque	47	Securities Broker	18th—Dubuque	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Coleman, C. Joseph	Clare	61	Farmer-Businessman	7th—Hamilton, Webster	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Colton, Milo	Sioux City	41	Educator	1st—Woodbury	70
Corning, Joy	Cedar Falls	52	Homemaker	12th—Black Hawk	None
Deluhery, Patrick J.	Davenport	42	College Teacher	21st—Scott	68, 69, 69X, 69XX, 70
Dieleman, William W. (Bill)	Pella	53	Life Insurance Underwriter	35th—Jasper, Marion, Polk, Warren	66, 67, 67X, 68, 69, 69X, 69XX, 70
Doyle, Donald V.	Sioux City	59	Lawyer	2nd—Ida, Monona, Woodbury	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Drake, Richard F.	Muscatine	57	General Farming	28th—Des Moines, Louisa, Muscatine, Washington	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70

## MEMBERS OF THE SENATE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Gentleman, Julia B.	Des Moines	53	Housewife	41st— <i>Polk</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70
Gettings, Donald E.	Ottumwa	61	Retired-Deere & Co.	33rd—Appanoose, Davis, <i>Wapello</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70
Goodwin, Norman J.	DeWitt	71	Retired County Extension Director	19th—Cedar, <i>Clinton</i>	68, 69, 69X, 69XX, 70
Gratias, Arthur L.	Nora Springs	64	Farmer-Educator	15th—Cerro Gordo, Chickasaw, <i>Floyd, Howard, Mitchell</i>	68, 69, 69X, 69XX, 70
Gronstal, Michael E.	Council Bluffs	34	Shipping Clerk	50th— <i>Pottawattamie</i>	70
Hall, Hurley W.	Marion	49	Telephone Engineer	24th—Buchanan, Delaware, <i>Linn</i>	68, 69, 69X, 69XX, 70
Hannon, Beverly A.	Anamosa	52	Homemaker-Student	22nd—Cedar, <i>Jones, Linn</i>	None
Hester, Jack W.	Honey Creek	55	Farmer	49th—Cass, Harrison, <i>Pottawattamie, Shelby</i>	68, 69, 69X, 69XX, 70
Holden, Edgar H.	Davenport	70	Entrepreneur	20th— <i>Scott</i>	62, 63, 64, 65, 67(2nd), 68, 69, 69X, 69XX, 70
Holt, Lee W.	Spencer	75	Automobile Dealer	6th— <i>Clay, Dickinson, Emmet,</i> <i>Palo Alto</i>	68, 69, 69X, 69XX, 70
Horn, Wally E.	Cedar Rapids	51	Teacher	25th— <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70

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GENERAL ASSEMBLY—Continued

MEMBERS OF THE SENATE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Hultman, Calvin O.	Red Oak	43	Businessman	47th—Fremont, Mills, Montgomery, Page, Pottawattamie	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Husak, Emil J.	Toledo	54	Farmer	38th—Benton, Black Hawk, Marshall, Tama	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Hutchins, C. W. Bill	Audubon	53	Businessman	48th—Audubon, Carroll, Crawford, Shelby	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Jensen, John W.	Plainfield	58	Farmer	11th—Black Hawk, Bremer, Butler, Grundy	68, 69, 69X, 69XX, 70
Junkins, Lowell L.	Montrose	40	Small Businessman- Farmer	31st—Des Moines, Lee, Van Buren	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Kinley, George R.	Des Moines	47	Owner-Driving Range & Golf Sales	40th—Polk	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Lind, Thomas A.	Waterloo	66	Businessman	13th—Black Hawk	67(2nd), 68, 69, 69X, 69XX, 70
Mann, Thomas, Jr.	Des Moines	35	Attorney	43rd—Polk	70
Miller, Alvin V.	Ventura	63	Insurance Agency- Retail Merchant	10th—Cerro Gordo, Winnebago, Worth	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Miller, Charles P.	Burlington	66	Doctor of Chiropractic	30th—Des Moines, Henry	60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70

## MEMBERS OF THE SENATE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Murphy, Larry	Oelwein	34	Free-lance Writer	14th—Black Hawk, Buchanan, Chickasaw, Fayette	None
Neighbour, John A.	Chariton	65	Farmer	34th—Clarke, Lucas, Monroe, Warren, Wayne	None
Nystrom, John N.	Boone	51	Legislator	44th—Boone, Carroll, Greene, Story	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Palmer, William D.	Des Moines	49	Insurance Executive	39th—Polk	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Priebe, Berl E.	Algona	66	Farmer-Businessman	8th—Hancock, Humboldt, Kossuth, Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Readinger, David M.	Des Moines	49	Sales	42nd—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Rife, Jack	Moscow	41	Farmer	29th—Muscatine, Scott	70
Ritsema, Douglas	Orange City	32	Lawyer	3rd—Plymouth, Sioux, Woodbury	68, 69, 69X, 69XX, 70
Rodgers, Norman	Adel	57	Farmer	45th—Adair, Dallas, Guthrie, Madison	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Schwengels, Forrest V.	Fairfield	69	Real Estate Salesman	32nd—Jefferson, Keokuk, Mahaska, Wapello	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Small, Arthur A., Jr.	Iowa City	51	Attorney	23rd—Johnson	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70



MEMBERS OF THE SENATE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Soorholtz, John E.	Melbourne	55	Farmer-Pork Producer	36th—Jasper, <i>Marshall</i>	70(2nd)
Taylor, Ray	Steamboat Rock	61	Farmer-Business	9th—Franklin, Hamilton, Hancock, <i>Hardin</i> , Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Tieden, Dale L.	Elkader	62	Retired	16th—Allamakee, <i>Clayton</i> , Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Vande Hoef, Richard	Harris	59	Farmer	4th—Cherokee, Clay, Lyon, O'Brien, <i>Osceola</i> , Sioux	69, 69X, 69XX, 70
Waldstein, Arne	Alta	59	Professional Farm Management-Rural Appraiser	5th— <i>Buena Vista</i> , Calhoun, Pocahontas, Sac, Webster	68, 69, 69X, 69XX, 70
Wells, James D.	Cedar Rapids	56	Cereal Company Employee	26th— <i>Linn</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Welsh, Joseph J. (Joe)	Dubuque	29	Businessman	17th— <i>Dubuque</i> , Jackson, Jones	68, 69, 69X, 69XX, 70

## MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Arnould, Robert C.	Davenport	31	Legislator	42nd— <i>Scott</i>	67(2nd), 67X, 68, 69, 69X, 69XX, 70
Avenson, Donald D.	Oelwein	40	Tool & Die Maker	28th— <i>Chickasaw, Fayette</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Baxter, Elaine *	Burlington	51	Economic Development Consultant	60th— <i>Des Moines</i>	69(2nd), 70
Beatty, Linda L.	Indianola	42		68th— <i>Warren</i>	None
Bennett, Wayne	Galva	57	Farmer	4th— <i>Ida, Monona, Woodbury</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Black, Dennis H.	Grinnell	45	County Conservation Board Director	71st— <i>Jasper, Marshall</i>	70
Bianshan, Eugene	Scranton	36	Farmer	88th— <i>Boone, Carroll, Greene</i>	70
Brammer, Philip E.	Cedar Rapids	52	Insurance Executive President	50th— <i>Linn</i>	70
Branstad, Clifford O.	Thompson	60	Farmer	16th— <i>Hancock, Kossuth, Winnebago</i>	68, 69, 69X, 69XX, 70
Buhr, Florence D.	Des Moines	51		85th— <i>Polk</i>	70
Carl, Janet	Grinnell	36	Management Trainer and Consultant	53rd— <i>Iowa, Poweshiek</i>	69, 69X, 69XX, 70
Carpenter, Dorothy F.	West Des Moines	51	Legislator	82nd— <i>Polk</i>	69, 69X, 69XX, 70
Carter, Brian	Mt. Pleasant	36	Teacher	59th— <i>Des Moines, Henry</i>	70
Chapman, Kay	Cedar Rapids	47	Lawyer	49th— <i>Linn</i>	70
Clark, Betty Jean	Rockwell	64		29th— <i>Cerro Gordo, Floyd, Mitchell</i>	67, 67X, 68, 69, 69X, 69XX, 70

MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Cochran, Dale M.	Eagle Grove	56	Farmer	14th—Hamilton, Webster	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Connolly, Michael W.	Dubuque	39	Teacher	35th—Dubuque	68, 69, 69X, 69XX, 70
Connors, John H.	Des Moines	62	Labor Arbitrator and Retired Fire Captain	79th—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Cooper, James J.	Russell	60	Farmer	67th—Clarke, Monroe, Lucas, Wayne	70
Corey, Virgil E.	Morning Sun	68	Farmer	55th—Des Moines, Louisa, Washington	68, 69, 69X, 69XX, 70
Daggett, Horace	Lenox	53	Farmer	92nd—Adams, Decatur, Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
De Groot, Kenneth R.	Doon	55	Farmer	8th—Lyon, O'Brien, Osceola, Sioux	68, 69, 69X, 69XX, 70
Diemer, Marvin E.	Cedar Falls	60	Self Employed	23rd—Black Hawk	68, 69, 69X, 69XX, 70
Doderer, Minnette	Iowa City	61	Legislator	45th—Johnson	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70
Fey, Thomas H.	Davenport	30	Former Training Coordinator	41st—Scott	69(2nd), 70
Fogarty, Daniel P.	Cylinder	60	Farmer	11th—Clay, Palo Alto	70
Grandia, Robert J.	Pella	70	Retired	69th—Marion	70
Groninga, John	Mason City	39	Energy Consultant	20th—Cerro Gordo	70

MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Groth, Richard	Albert City	38	Partner, Insurance Agency	10th— <i>Buena Vista</i> , Pocahontas	68, 69, 69X, 69XX, 70
Gruhn, Josephine	Spirit Lake	57	Farmer	12th— <i>Dickinson</i> , Emmet	70
Halvorson, Rod	Fort Dodge	35	Real Estate Salesman	13th— <i>Webster</i>	68, 69, 69X, 69XX, 70
Halvorson, Roger A.	Monona	50	Insurance-Real Estate Broker	32nd— <i>Allamakee, Clayton</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70
Hammond, Johnie	Ames	52	Legislator	74th— <i>Story</i>	70
Handorf, Ward	Gladbrook	70	Farmer	75th— <i>Black Hawk, Marshall</i> , Tama	70
Hanson, Darrell R.	Manchester	30	Insurance Adjuster	48th— <i>Buchanan, Delaware</i> , Linn	68, 69, 69X, 69XX, 70
Harbor, William H.	Henderson	64	Grain Elevator Owner-Operator	94th— <i>Mills</i> , Montgomery, Pottawattamie	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69, 69X, 69XX, 70
Hatch, Jack	Des Moines	34	Business Owner- Management Consultant	81st— <i>Polk</i>	None
Haverland, Mark A.	Polk City	38	Minister-Teacher	77th— <i>Polk</i>	70
Hermann, Donald F.	Bettendorf	63	Retired Industrial Relations Manager	40th— <i>Scott</i>	70
Hester, Joan L.	Honey Creek	52	Farm Wife	98th— <i>Harrison, Pottawattamie</i>	None
Holveck, Jack	Des Moines	41	Attorney	84th— <i>Polk</i>	70
Hughes, Randy	Creston	36	Instructor	91st— <i>Adair, Adams, Cass, Clarke,</i> <i>Union</i>	70
Hummel, Kyle	Vinton	49	Contractor-Realtor	76th— <i>Benton</i> , Black Hawk	68, 69, 69X, 69XX, 70
Jay, Daniel J.	Centerville	30	Lawyer	66th— <i>Appanoose</i> , Davis, Wapello	68, 69, 69X, 69XX, 70

MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Jochum, Thomas J.	Dubuque	33	Legislator	36th— <i>Dubuque</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70
Johnson, Paul W.	Decorah	43	Farmer	31st—Allamakee, <i>Winneshiek</i>	None
Knapp, Donald J.	Cascade	52		33rd— <i>Dubuque, Jones</i>	69(2nd), 70
Koenigs, Deo A.	McIntire	49	Farmer	30th—Chickasaw, Howard, <i>Mitchell</i>	70
Kremer, Joseph M.	Jesup	63	Farmer	27th—Black Hawk, <i>Buchanan</i>	None
Lageschulte, Raymond	Waverly	62	Farmer and Insurance Adjuster	22nd—Black Hawk, <i>Bremer, Butler</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70
Lloyd-Jones, Jean	Iowa City	55	Legislator	46th— <i>Johnson</i>	68, 69, 69X, 69XX, 70
Lonergan, Joyce	Boone	50	Book Store Owner	87th— <i>Boone, Story</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70
Maulsby, Ruhl	Rockwell City	61	Owner-Operator Livestock and Grain Farm	9th— <i>Calhoun, Sac, Webster</i>	68, 69, 69X, 69XX, 70
McIntee, John E.	Waterloo	34	Home Builder-Attorney	26th— <i>Black Hawk</i>	70
McKean, Andy	Morley	35	Lawyer-College Instructor	44th— <i>Jones, Linn</i>	68, 69, 69X, 69XX, 70
Metcalf, Janet S.	Des Moines	49	Legislator	83rd— <i>Polk</i>	None
Miller, Tom H.	Cherokee	59	Self-employed Journalist	7th— <i>Cherokee, O'Brien, Clay</i>	None
Muhlbauer, Louis J.	Manilla	55	Farm Business	96th— <i>Crawford, Shelby</i>	70
Mullins, Sue	Corwith	48	Farmer	15th—Humboldt, <i>Kossuth, Palo Alto, Pochontas</i>	68, 69, 69X, 69XX, 70
Norland, Lowell E.	Kensett	53	Farmer	19th—Cerro Gordo, Winnebago, <i>Worth</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
O'Kane, James D.	Sioux City	33	Legislator	1st— <i>Woodbury</i>	68, 69, 69X, 69XX, 70

## MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Ollie, C. Arthur	Clinton	43	Teacher	38th— <i>Clinton</i>	70
Osterberg, David	Mt. Vernon	41	Economic Consultant	43rd— <i>Cedar, Linn</i>	70
Oxley, Myron B.	Marion	62	Farmer	47th— <i>Linn</i>	61, 67, 67X, 68, 69, 69X, 69XX, 70
Parker, Edward G.	Mingo	25	Contractor, Small Business Owner	70th— <i>Jasper, Marion, Polk, Warren</i>	70
Paulin, Donald J.	Le Mars	51	Kitchen Cabinet Retailer	5th— <i>Plymouth, Woodbury</i>	70
Pavich, Emil S.	Council Bluffs	53	Cereal Company Employee	100th— <i>Pottawattamie</i>	66, 67, 67X, 68, 69, 69X, 69XX, 70
Peick, Doris A.	Cedar Rapids	51	Quality Control Inspector	52nd— <i>Linn</i>	70
Pellett, Wendell C.	Atlantic	67	Farmer	97th— <i>Cass, Harrison, Pottawattamie, Shelby</i>	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Peterson, Michael K.	Carroll	24		95th— <i>Audubon, Carroll, Shelby</i>	None
Platt, Donald R.	Muscatine	61	Legislator	56th— <i>Louisa, Muscatine</i>	None
Poncy, Charles N.	Ottumwa	62	Retired	65th— <i>Wapello</i>	62, 63, 65, 66, 67, 67X, 69, 69X, 69XX, 70
Renaud, Dennis L.	Altoona	42	D.M. Fire Department- Barber Business	78th— <i>Polk</i>	69, 69X, 69XX, 70
Renken, Robert H.	Aplington	62	Farmer	21st— <i>Butler, Grundy</i>	68(2nd), 69, 69X, 69XX, 70
Rensink, Wilmer	Sioux Center	51	Farmer	6th— <i>Plymouth, Sioux</i>	70
Rosenberg, Ralph	Ames	33	Attorney	73rd— <i>Story</i>	69(2nd), 70

## MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Royer, Bill D.	Essex	55	Real Estate Broker and Appraiser	93rd—Fremont, Mills, <i>Page</i>	70
Running, Richard V.	Cedar Rapids	38	Quality Control Technologist	51st— <i>Linn</i>	69, 69X, 69XX, 70
Schnekloth, Hugo	Eldridge	61	Farmer	39th— <i>Scott</i>	67, 67X, 68, 69, 69X, 69XX, 70
Sherzan, Gary	Des Moines	40	Correctional Worker	86th— <i>Polk</i>	70
Shoning, Don	Sioux City	69	Retired	3rd— <i>Woodbury</i>	None
Shoultz, Don	Waterloo	48	Teacher	25th— <i>Black Hawk</i>	70
Siegrist, J. Brent	Council Bluffs	32	Teacher	99th— <i>Pottawattamie</i>	None
Skow, Bob	Guthrie Center	32	Insurance-Real Estate Broker	90th—Adair, Dallas, <i>Guthrie</i> , Madison	70
Spear, Clay	Burlington	68	Retired Postal Service Employee	61st— <i>Des Moines</i> , Lee	66, 67, 67X, 68, 69, 69X, 69XX, 70
Stromer, Delwyn	Garner	54	Farmer, Legislator	17th—Franklin, <i>Hancock</i> , Wright	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Stueland, Vic	Grand Mound	64	Farmer-Business	37th—Cedar, <i>Clinton</i>	69, 69X, 69XX, 70
Sturgeon, Al	Sioux City	28	Laborer	2nd— <i>Woodbury</i>	69, 69X, 69XX, 70
Sullivan, William R.	Cantril	39	Heavy Equipment Operator	62nd—Lee, <i>Van Buren</i>	69, 69X, 69XX, 70
Swartz, Thomas E.	Marshalltown	38		72nd— <i>Marshall</i>	69, 69X, 69XX, 70

MEMBERS OF THE HOUSE—SEVENTY-FIRST GENERAL ASSEMBLY—1985 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Swearingen, George R.	Sigourney	61	Retired Teacher- Legislator	63rd—Jefferson, <i>Keokuk</i> , Wapello	68, 69, 69X, 69XX, 70
Tabor, David M.	Baldwin	29	Farmer	34th—Dubuque, <i>Jackson</i>	70
Teaford, Jane	Cedar Falls	49	Legislator	24th— <i>Black Hawk</i>	None
Torrence, Janis I.	Atalissa	58	Retail Sales	57th— <i>Muscatine</i> , <i>Scott</i>	70
Van Camp, Mike	Davenport	43	Union Electrician	58th— <i>Scott</i>	70
Van Maanen, Harold	Oskaloosa	55	Farmer	64th—Keokuk, <i>Mahaska</i> , Wapello	68, 69, 69X, 69XX, 70
Varn, Richard J.	Solon	26	Baking Company Employee-Law Student	54th—Iowa, <i>Johnson</i>	70
Welden, Richard W.	Iowa Falls	76	Retired Contractor	18th—Franklin, <i>Hardin</i> , Hamilton	62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Woods, Jack E.	Des Moines	48	Self-Employed	80th— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70
Zimmerman, Jo Ann	Waukee	48	Registered Nurse, Health Planner	89th— <i>Dallas</i>	70

District 60      \*Elected in Special Election January 26, 1982



## CONDITION OF STATE TREASURY

### Receipts, Disbursements and Balances in the Several Funds For the Fiscal Period Ending June 30, 1984

	Balance July 1, 1983	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1984
General Fund .....	\$ 74,829,372	\$ 2,463,033,386	\$ 2,537,862,758	\$ 2,441,502,153	\$ 96,360,605
Special Revenue Fund .....	189,590,403	634,688,933	824,279,336	639,234,192	185,045,144
Capital Project Fund .....	1,312,290	22,684,833	23,997,123	21,441,188	2,555,935
Debt Service Fund .....	9,641,098	-788,002	8,853,096	6,001,527	2,851,569
Enterprise Fund .....	5,842,343	70,557,210	76,399,553	76,320,775	78,778
Internal Service Fund .....	9,330,091	28,111,148	37,441,239	30,525,221	6,916,018
Expendable Trust Fund .....	15,849,301	223,717,314	239,566,615	229,821,288	9,745,327
Non-Expendable					
Trust Fund .....	5,417,698	21,033	5,438,731	0	5,438,731
Pension Fund .....	1,902,403,861	387,631,542	2,290,035,403	125,946,767	2,164,088,636
Trust and Agency Fund .....	74,156,880	943,834,814	1,017,991,694	913,588,190	104,403,504
Totals .....	<u>\$ 2,288,373,337</u>	<u>\$ 4,773,492,211</u>	<u>\$ 7,061,865,548</u>	<u>\$ 4,484,381,301</u>	<u>\$ 2,577,484,247</u>

Balance July 1, 1983 .....	\$2,288,373,337
Receipts and Transfers .....	4,773,492,211
Total Available .....	\$7,061,865,548
Redemption and Disbursements .....	4,484,381,301
Balance June 30, 1984 .....	<u>\$2,577,484,247</u>

**OFFICE OF THE STATE COMPTROLLER  
JUNE 11, 1985**

**LAWS**  
OF THE  
**1985 Regular Session**  
OF THE  
**Seventy-first General Assembly**  
OF THE  
**STATE OF IOWA**

PASSED AT DES MOINES, THE CAPITAL OF THE STATE, BEGUN ON THE FOURTEENTH  
DAY OF JANUARY, AND ENDED ON THE FOURTH DAY OF MAY, A.D. 1985  
IN THE ONE HUNDRED THIRTY-NINTH YEAR OF THE STATE

**CHAPTER 1**  
**FIVE-YEAR EDUCATION PLAN**  
*S.F. 78*

**AN ACT** requiring the state board of public instruction to adopt a five-year plan regarding education.

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

Section 1. Section 257.10, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 16.** Develop and adopt a five-year plan for the achievement of common and significant educational goals in Iowa and shall update the plan annually and issue an annual report of progress. In the development of the plan the board shall solicit the views of associations and individuals interested in educating Iowa's children and youth.

Approved February 22, 1985

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**CHAPTER 2**  
**SPECIAL EDUCATION BALANCES OF SCHOOL DISTRICTS**  
*H.F. 100*

**AN ACT** relating to the determination of special education balances of school districts by the state comptroller and providing that the Act is retroactive to June 30, 1984.

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

Section 1. Section 442.13, subsection 14, unnumbered paragraph 1, Code 1985, is amended to read as follows:

For the budget school year beginning July 1, ~~1982~~ 1983 and succeeding school years, as soon as possible following June 30 of the base year, the school budget review committee shall determine for each school district the balance of funds, whether positive or negative, raised for special education instruction programs under the special education weighting plan established in section 281.9. The committee shall certify the balance of funds for each school district to the state comptroller.

In determining the balance of funds of a school district under this subsection, the committee shall subtract the amount of any reduction in state aid that occurred as a result of a reduction in allotments made by the governor with the concurrence of the executive council under section 8.31.

Sec. 2. This Act takes effect from and after its publication in the Creston News-Advertiser, a newspaper published in Creston, Iowa, and in the Lenox Time-Table, a newspaper published in Lenox, Iowa, and is retroactive to June 30, 1984.

Approved March 1, 1985

I hereby certify that the foregoing Act was published in the Creston News-Advertiser, Creston, Iowa on March 12, 1985 and in the Lenox Time-Table, Lenox, Iowa on March 13, 1985.

MARY JANE ODELL, *Secretary of State*

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### CHAPTER 3

#### LIFE-SUSTAINING PROCEDURES ACT

*S.F. 25*

**AN ACT** relating to life-sustaining procedures by providing a procedure for declarations by certain competent adults that life-sustaining procedures may be withheld or withdrawn; providing for revocations; providing a procedure in absence of a declaration; providing for patient transfers; providing immunity from liability; prohibiting destruction, concealment or forging of declarations or revocations; providing penalties; and providing other matters properly relating thereto.

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

Section 1. **POLICY STATEMENT.** The legislature finds that all adults have the fundamental right to control the decisions relating to their own medical care, including the decision to have medical or surgical means or procedures calculated to prolong their lives provided, withheld or withdrawn. This right is subject to certain interests of society, such as the protection of human life and the preservation of ethical standards in the medical profession. The legislature further finds that the artificial prolongation of life for persons with a terminal condition may secure only a precarious and burdensome existence, while providing nothing medically necessary or beneficial to the patient. In order that the rights and intentions of persons with such conditions may be respected even after they are no longer able to participate actively in decisions concerning themselves, and to encourage communications between these patients, their families, and their physicians, the legislature declares that the laws of Iowa shall recognize the right of an adult to make a written declaration instructing the adult's physician to provide, withhold, or withdraw life-sustaining procedures or to designate

another to make treatment decisions, in the event the person is diagnosed as suffering from a terminal condition.

Sec. 2. NEW SECTION. 144A.1 SHORT TITLE.

This chapter may be cited as the "Life-sustaining Procedures Act."

Sec. 3. NEW SECTION. 144A.2 DEFINITIONS.

Except as otherwise provided, as used in this chapter:

1. "Adult" means an individual eighteen years of age or older.
2. "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.
3. "Declaration" means a document executed in accordance with the requirements of section 144A.3.
4. "Health care provider" means a health care facility licensed pursuant to chapter 135C, a hospice program licensed pursuant to chapter 135, or a hospital licensed pursuant to chapter 135B.
5. "Life-sustaining procedure" means any medical procedure, treatment or intervention which meets both of the following requirements:
  - a. Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.
  - b. When applied to a patient in a terminal condition, would serve only to prolong the dying process.

"Life-sustaining procedure" does not include the provision of sustenance or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

6. "Physician" means a person licensed to practice medicine and surgery, osteopathy or osteopathic medicine and surgery in this state.
7. "Qualified patient" means a patient who has executed a declaration in accordance with this chapter and who has been determined by the attending physician to be in a terminal condition.
8. "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short time.

Sec. 4. NEW SECTION. 144A.3 DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES.

1. Any competent adult may execute a declaration at any time directing that life-sustaining procedures be withheld or withdrawn. The declaration may be given operative effect only if the declarant's condition is determined to be terminal and the declarant is not able to make treatment decisions. The declaration must be signed by the declarant or another at the declarant's direction in the presence of two persons who shall sign the declaration as witnesses. An attending physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.
2. It is the responsibility of the declarant to provide the declarant's attending physician with the declaration.
3. A declaration executed pursuant to this chapter may, but need not, be in the following form:

DECLARATION

If I should have an incurable or irreversible condition that will cause my death within a relatively short time, it is my desire that my life not be prolonged by administration of life-

sustaining procedures. If my condition is terminal and I am unable to participate in decisions regarding my medical treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.  
Signature \_\_\_\_\_

City, County and State of Residence \_\_\_\_\_

The declarant is known to me and voluntarily signed this document in my presence.

Witness \_\_\_\_\_

Address \_\_\_\_\_

Witness \_\_\_\_\_

Address \_\_\_\_\_

Sec. 5. NEW SECTION. 144A.4 REVOCATION OF DECLARATION.

1. A declaration may be revoked at any time and in any manner by which the declarant is able to communicate the declarant's intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending physician upon communication to such physician by the declarant or by another to whom the revocation was communicated.

2. The attending physician shall make the revocation a part of the declarant's medical record.

Sec. 6. NEW SECTION. 144A.5 RECORDING DETERMINATION OF TERMINAL CONDITION.

When an attending physician who has been provided with a declaration determines that the declarant is in a terminal condition, this decision must be confirmed by another physician. The attending physician must record that determination in the declarant's medical record.

Sec. 7. NEW SECTION. 144A.6 TREATMENT OF QUALIFIED PATIENTS.

1. A qualified patient has the right to make decisions regarding use of life-sustaining procedures as long as the qualified patient is able to do so. If a qualified patient is not able to make such decisions, the declaration shall govern decisions regarding use of life-sustaining procedures.

2. The declaration of a qualified patient known to the attending physician to be pregnant shall not be in effect as long as the fetus could develop to the point of live birth with continued application of life-sustaining procedures. However, the provisions of this subsection do not impair any existing rights or responsibilities that any person may have in regard to the withholding or withdrawal of life-sustaining procedures.

Sec. 8. NEW SECTION. 144A.7 PROCEDURE IN ABSENCE OF DECLARATION.

1. Life-sustaining procedures may be withheld or withdrawn from a patient who is in a terminal condition and who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not made a declaration in accordance with this chapter if there is consultation and written agreement for the withholding or the withdrawal of life-sustaining procedures between the attending physician and any of the following individuals, who shall be guided by the express or implied intentions of the patient, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act:

a. The attorney in fact designated to make treatment decisions for the patient should such person be diagnosed as suffering from a terminal condition, if the designation is in writing and complies with section 633.705.

b. The guardian of the person of the patient if one has been appointed. This paragraph does not require the appointment of a guardian in order for a treatment decision to be made under this section.

- c. The patient's spouse.
  - d. An adult child of the patient or, if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation.
  - e. A parent of the patient, or parents if both are reasonably available.
  - f. An adult sibling.
2. When a decision is made pursuant to this section to withhold or withdraw life-sustaining procedures, there shall be a witness present at the time of the consultation when that decision is made.
3. Subsections 1 and 2 shall not be in effect for a patient who is known to the attending physician to be pregnant with a fetus that could develop to the point of live birth with continued application of life-sustaining procedures. However, the provisions of this subsection do not impair any existing rights or responsibilities that any person may have in regard to the withholding or withdrawal of life-sustaining procedures.

**Sec. 9. NEW SECTION. 144A.8 TRANSFER OF PATIENTS.**

1. An attending physician who is unwilling to comply with the requirements of section 144A.5 or who is unwilling to comply with the declaration of a qualified patient in accordance with section 144A.6 or who is unwilling to comply with the provisions of section 144A.7 shall take all reasonable steps to effect the transfer of the patient to another physician.
2. If the policies of a health care provider preclude compliance with the declaration of a qualified patient under this chapter or preclude compliance with the provisions of section 144A.7, the provider shall take all reasonable steps to effect the transfer of the patient to a facility in which the provisions of this chapter can be carried out.

**Sec. 10. NEW SECTION. 144A.9 IMMUNITIES.**

1. In the absence of actual notice of the revocation of a declaration, the following, while acting in accordance with the requirements of this chapter, are not subject to civil or criminal liability or guilty of unprofessional conduct:
  - a. A physician who causes the withholding or withdrawal of life-sustaining procedures from a qualified patient.
  - b. The health care provider in which such withholding or withdrawal occurs.
  - c. A person who participates in the withholding or withdrawal of life-sustaining procedures under the direction of or with the authorization of a physician.
2. A physician is not subject to civil or criminal liability for actions under this chapter which are in accord with reasonable medical standards.
3. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this chapter may interpose this chapter as an absolute defense.

**Sec. 11. NEW SECTION. 144A.10 PENALTIES.**

1. Any person who willfully conceals, withholds, cancels, destroys, alters, defaces, or obliterates the declaration of another without the declarant's consent or who falsifies or forges a revocation of the declaration of another is guilty of a serious misdemeanor.
2. Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of or delivery of a revocation as provided in section 144A.4, with the intent to cause a withholding or withdrawal of life-sustaining procedures, is guilty of a serious misdemeanor.

**Sec. 12. NEW SECTION. 144A.11 GENERAL PROVISIONS.**

1. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to a declaration and in accordance with this chapter does not, for any purpose, constitute a suicide or homicide.

2. The making of a declaration pursuant to section 144A.3 does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance is legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter, notwithstanding any term of the policy to the contrary.

3. A physician, health care provider, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

4. This chapter creates no presumption concerning the intention of an individual who has not executed a declaration with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

5. This chapter shall not be interpreted to increase or decrease the right of a patient to make decisions regarding use of life-sustaining procedures as long as the patient is able to do so, nor to impair or supersede any right or responsibility that any person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of this chapter are cumulative.

6. This chapter shall not be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

Approved March 4, 1985

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**CHAPTER 4**  
DESIGNATION OF THE GRAND RIVER  
*S.F. 15*

**AN ACT** relating to the designation of the Grand river.

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

Section 1. The river arising in Adair county and flowing through the counties of Madison, Union, Ringgold, and Decatur county which flows out of this state at section 24, New Buda township, Decatur county is designated the Grand river and shall not be designated by any other name on maps published by the state of Iowa or road signs of the state or its political subdivisions.

Approved March 5, 1985



**CHAPTER 5**  
**FEDERAL ASBESTOS LOAN PROGRAM**  
*S.F. 128*

**AN ACT** relating to the use of certain funds for the elimination of asbestos from school buildings.

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

Section 1. Section 279.43, subsection 1, Code 1985, is amended to read as follows:

1. The board of directors may pay the actual cost of removal or encapsulation of asbestos existing in its school buildings from any funds in the general fund of the district, funds received from the schoolhouse tax authorized under section 278.1, subsection 7, ~~or funds from the tax levy certified under section 297.5~~ or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this subsection.

Approved March 5, 1985

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**CHAPTER 6**  
**FIRST DAY OF SCHOOL YEAR**  
*S.F. 77*

**AN ACT** requiring that the first day of school not be sooner than the first day of September except under certain conditions and providing an effective date.

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

Section 1. Section 279.10, subsection 1, Code 1985, is amended to read as follows:

1. The school year shall begin on the first day of July and each school regularly established elementary and secondary school shall begin no sooner than the first day of September and shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained during the entire calendar year. A school corporation may begin employment of personnel for in-service training, and development purposes before the date to begin elementary and secondary school.

Sec. 2. Section 279.10, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The state board of public instruction may grant a request made by a board of directors of a school district stating its desire to commence classes for regularly

established elementary and secondary schools before the first day of September. Such request shall be based upon the determination that a starting date on or after the first day of September would have a significant negative educational impact.

Sec. 3. Section 299.1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

299.1 ATTENDANCE REQUIREMENT. A person having control of a child over seven and under sixteen years of age, in proper physical and mental condition to attend school, shall cause the child to attend some public school for at least one hundred twenty days in each school year, commencing with no sooner than the first week of school after the first day of September, unless the board of school directors establishes a later date, which date shall not be later than the first Monday in December.

Sec. 4. This Act takes effect July 1, 1986.

Approved March 5, 1985

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## CHAPTER 7

### REGULATION OF WATER USE AND ALLOCATION

*S.F. 163*

**AN ACT** relating to the authority of the department of water, air and waste management to regulate water use and embodying a general plan of water allocation priorities for this state.

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

Section 1. Section 455B.261, subsection 8, Code 1985, is amended to read as follows:

8. "Nonregulated use" means the use of water for ordinary household purposes, use of water for poultry, livestock, and domestic animals, any beneficial use of surface flow from rivers bordering this state, any existing beneficial uses of water within the territorial boundaries of municipal corporations on May 16, 1957, and any other beneficial use of water by any person of less than twenty-five thousand gallons per day. However, industrial users of water, having their own water supply, within the territorial boundaries of municipal corporations, shall be regulated when their water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

Sec. 2. Section 455B.262, subsections 2 and 3, Code 1985, are amended to read as follows:

2. The general welfare of the people of the state requires that the water resources of the state be put to beneficial use to the fullest extent possible, and which includes ensuring that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation and protection of water resources be encouraged required with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

3. Water occurring in a basin or watercourse, or other natural body of water of the state, is public water and public wealth of the people of the state and subject to use in accordance with this chapter, and the control and development and use of water for all beneficial purposes is vested in the state, which shall take measures to ~~encourage full utilization~~ ensure the conservation and protection of the water resources of the state. These measures shall include the protection of specific surface and groundwater sources as necessary to ensure long-term availability in terms of quantity and quality to preserve the public health and welfare.

Sec. 3. Section 455B.263, subsection 1, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

1. The commission shall deliver to the general assembly by January 15, 1987, a plan embodying a general groundwater protection strategy for this state which considers the effects of potential sources of groundwater contaminations on groundwater quality. The plan shall evaluate the ability of existing laws and programs to protect groundwater quality and recommend any necessary additional or alternative laws and programs. The department shall develop the plan with the assistance of and in consultation with representatives of agriculture, industry, and public and other interests. The commission shall report to the general assembly on the status and implementation of the plan on a biennial basis. This section does not preclude the implementation of existing or new laws or programs which may protect groundwater quality.

Sec. 4. Section 455B.264, subsection 2, Code 1985, is amended to read as follows:

2. Upon application by any person for permission to divert, pump, or otherwise take waters from any watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use, the executive director shall investigate the effect of the use upon the natural flow of the watercourse, the effect of the use upon the owners of any land which might be affected by the use, the effect of the use upon prior users of the water source and contracts made under section 455B.263 and whether the use is consistent with the plan of water allocation priorities for this state principles and policies of beneficial use.

Sec. 5. Section 455B.265, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**455B.265 PERMITS FOR DIVERSION, STORAGE AND WITHDRAWAL.**

1. In its consideration of applications for permits, the department shall give priority in processing to persons in the order that the applications are received, except where the application of this processing priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. If the department determines after investigation that the diversion, storage or withdrawal is consistent with the principles and policies of beneficial use and ensuring conservation, the department shall grant a permit. Regardless of the request in the application, the executive director or the commission on appeal may determine the duration and frequency of withdrawal and the quantity of water to be diverted, stored or withdrawn pursuant to the permit. Each permit granted after July 1, 1986, shall include conditions requiring routine conservation practices, and requiring implementation of emergency conservation measures after notification by the department.

2. If an application is received by July 1, 1986, the department shall grant a permit for the continuation of a beneficial use of water that was a nonregulated use prior to July 1, 1985, and now requires a permit pursuant to section 455B.268. However, the permit is subject to conditions requiring routine and emergency conservation measures and to modification or cancellation under section 455B.271. Applications received after July 1, 1986 for those uses shall be determined pursuant to subsection 1.

3. Permits shall be granted for a period of ten years; however, permits for withdrawal of water may be granted for less than ten years if geological data on the capacity of the aquifer and the rate of its recharge are indeterminate, and permits for the storage of water may be granted for the life of the structure unless revoked by the commission. A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until an earlier date when the permit or its extension is canceled under section 455B.271. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for a period of ten years.

Sec. 6. Section 455B.266, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**455B.266 PRIORITY ALLOCATION.**

1. After any event described in paragraphs "a" through "d" of this subsection has occurred, the department shall investigate and, if appropriate, may implement the priority allocation plan provided in subsection 2. The department shall require existing permittees to implement appropriate emergency conservation measures. The pertinent public notice and hearing requirements of subsection 4 of this section and sections 455B.271 and 455B.278 shall apply to the implementation of the plan.

a. Receipt of a petition by twenty-five affected persons or a governmental subdivision requesting that the priority allocation plan be implemented due to a substantial local water shortage.

b. Receipt of information from a state or federal natural resource, research or climatological agency indicating that a drought of local or state magnitude is imminent.

c. Issuance by the governor of a proclamation of a disaster emergency due to a drought or other event affecting water resources of the state.

d. Determination by the department in conjunction with the office of disaster services of a local crisis which affects availability of water.

2. Notwithstanding a person's possession of a permit or the person's use of water being a nonregulated use, the department may suspend or restrict usage of water by category of use on a local or statewide basis in the following order:

a. Water conveyed across state boundaries.

b. Uses of water primarily for recreational or aesthetic purposes.

c. Uses of water for the irrigation of hay, corn, soybeans, oats, grain sorghum or wheat.

d. Uses of water for the irrigation of crops other than hay, corn, soybeans, oats, grain sorghum or wheat.

e. Uses of water for manufacturing or other industrial processes.

f. Uses of water for generation of electrical power for public consumption.

g. Uses of water for livestock production.

h. Uses of water for human consumption and sanitation supplied by rural water districts, municipal water systems, or other public water supplies as defined in section 455B.171.

i. Uses of water for human consumption and sanitation supplied by a private water supply as defined in section 455B.171.

3. Unless the governor has issued a proclamation described in subsection 1, paragraph "c", the department shall not impose a suspension of water use or a further restriction, other than conservation, on the uses of water provided in subsection 2, paragraphs "g" through "i" or on users of water pursuant to a contract with the state as provided in section 455B.263, subsections 5 and 6.

4. Suspension or restrictions of water usage applicable to otherwise nonregulated water users shall be by emergency order of the executive director which the department shall cause to be published in local newspapers of general circulation and broadcast by local media. The emergency order shall state an effective date of the suspension or restriction and shall be immediately effective on such date unless stayed, modified or vacated at a hearing before the commission or by a court.

Sec. 7. Section 455B.267, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A permit to divert, store or withdraw water shall not be issued or continued if it will unreasonably impair the long-term availability of water from a surface or groundwater source in terms of quantity or quality, or otherwise adversely affect the public health or welfare.

Sec. 8. Section 455B.268, subsection 1, Code 1985, is amended to read as follows:

1. A permit shall be required for the following:

~~a. A municipal corporation or a person supplying a municipal corporation which increases its water use in excess of one hundred thousand gallons or three percent, whichever is the greater, per day more than its highest per day beneficial use prior to May 16, 1957. The corporation or person shall make reasonable provision for the storage of water at times when the daily use of the water by the corporation or person is less than the amount specified in this subsection.~~

~~b. a. Except for a nonregulated use, a person using in excess of twenty five thousand gallons of water per day, diverted, stored, or withdrawn diverting, storing or withdrawing water from any surface or groundwater source of supply except a municipal water system or any other source specifically exempted under this part.~~

~~e. b. A person who diverts water or any material from the surface directly into an underground watercourse or basin.~~

~~d. Industrial users of water having their own water supply within the territorial boundaries of municipal corporations when the water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.~~

Sec. 9. Section 455B.271, subsection 2, paragraph d, Code 1985, is amended to read as follows:

d. The department finds that modification or cancellation is necessary to protect the public health or safety, to protect the public interests in lands or waters, to require conservation measures or to prevent substantial injury to persons or property in any manner. Before the modification or cancellation is effective, the department shall give at least thirty days' written notice mailed to the permittee at the permittee's last known address, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard on the proposal.

Sec. 10. Section 455B.271, subsection 3, Code 1985, is amended to read as follows:

3. By written emergency order to the permittee, the department may suspend or restrict operations under a permit if the executive director finds it necessary in an emergency to protect the public health, to protect the public interest in waters against imminent danger of substantial injury in any manner or to an extent not expressly authorized by the permit, to implement the priority allocation system of section 455B.266, or to protect persons or property against imminent danger. The department may require the permittee to take measures necessary to prevent or remedy the injury, but an order shall not be in effect for more than thirty days from the date of issue without giving the permittee at least ten days' written notice of the order and an opportunity to be heard on the order. The emergency order shall

state the effective date of the suspension or restriction and shall be immediately effective on that date unless stayed, modified or vacated at a hearing before the commission or by a court.

Sec. 11. NEW SECTION. 455B.281 COMPENSATION FOR WELL INTERFERENCE.

If an investigation by the department, using information provided by the applicant or permittee and the complainant, discloses that a proposed or existing permitted use or combination of such uses is causing or will cause the delivery system to fail in a well which supplies water for a nonregulated use, the department may condition issuance or continuation of a permit upon payment by the permittee of compensation for all or a portion of the cost of a replacement water supply system or remedial measures necessitated by the interference. However, such condition may be imposed only after the parties demonstrate to the department that a good faith effort to negotiate a mutually agreeable compensation has been made and has failed.

Determination of the amount of compensation for the well interference shall be made a part of the determination of the department in accordance with section 455B.265 or 455B.271. The department may require the submission of itemized estimates of the cost of remedial repairs or a replacement water supply system. In determining appropriate compensation, the department shall consider the age and condition of the affected well or pumping system and its reasonableness as a method of obtaining groundwater in light of the history of development of groundwater in the surrounding area. When compensation is required for all or part of the cost of construction of a replacement water supply system or reconstruction of an affected well, the construction or reconstruction must comply with applicable well construction standards. A permittee is not required to pay compensation before having an opportunity to do test pumping authorized by the department and supervised by the department or designee.

The determination of the department shall be subject to administrative and judicial review and shall be the exclusive remedy for such interference.

Approved March 5, 1985

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## CHAPTER 8

### USE OF APPRAISED VALUE FOR SCHOOL PROPERTY

*H.F. 38*

**AN ACT** providing that appraised value determines when a school board has the power to sell, lease or dispose of school property.

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

Section 1. Section 297.22, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The board of directors of a school district may sell, lease, or dispose of, in whole or in part, a schoolhouse, site, or other property belonging to the district for which the appraised value

does not exceed twenty-five thousand dollars. If the appraised value exceeds twenty-five thousand dollars, the board shall submit the question at an election under section 278.1, subsection 2, to authorize the sale, lease or disposal.

Approved March 5, 1985

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**CHAPTER 9**  
ADDITIONAL CONDITIONS FOR ZONING CHANGES  
*H.F. 265*

**AN ACT** authorizing a city or a county to impose additional conditions on property owners as a condition to zoning changes.

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

Section 1. Section 358A.7, Code 1985, is amended to read as follows:

**358A.7 CHANGES AND AMENDMENTS.**

Such ~~The~~ regulations, restrictions, and boundaries may, ~~from time to time~~, be amended, supplemented, changed, modified, or repealed. Notwithstanding section 358A.4, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a board of supervisors may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a protest against ~~such~~ the change signed by the owners of twenty percent or more either of the area included in ~~such~~ the proposed change, or of the area immediately adjacent ~~thereto~~ to the proposed change and within five hundred feet of the boundaries ~~thereof~~ of the proposed change, ~~such~~ the amendment shall not become effective except by the favorable vote of at least sixty percent of all of the members of the board of supervisors. The provisions of section 358A.6 relative to public hearings and official notice shall apply equally to all changes or amendments.

Sec. 2. Section 414.5, Code 1985, is amended to read as follows:

**414.5 CHANGES — PROTEST.**

The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public

needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the city clerk and signed by the owners of twenty percent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the council. The provisions of section 414.4 relative to public hearings and official notice apply equally to all changes or amendments.

Approved March 5, 1985

**CHAPTER 10**  
**FUR HARVESTER AND HUNTING LICENSES**  
*S.F. 55*

**AN ACT** relating to fur harvester and hunting licenses and providing an effective date by publication.

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

Section 1. Section 109.56, subsection 1, Code 1985, is amended to read as follows:

1. Except during the open gun season for hunting deer at which time no training of dogs ~~shall be is~~ allowed, any person having a valid hunting license may train ~~any~~ a bird dog, ~~coon hound, fox hound, or trailing dog~~ on any game birds ~~or~~ and a person having a valid fur harvester license may train a coon hound, fox hound, or trailing dog on any fur-bearing animals at any time of the year including during the closed season on such birds or animals, provided the animals when pursued to a tree or den shall not be further chased or removed in any manner from ~~said~~ the tree or den. A person having a hunting license may train a dog on coyote or groundhog.

Only a pistol, revolver, or other gun shooting blank cartridges shall be used while training dogs during closed season except as provided in subsection 2 of this section.

Sec. 2. Section 110.5, Code 1985, is amended to read as follows:

**110.5 FUR HARVESTER LICENSE.**

A fur harvester license is required to hunt ~~all furbearers, except coyote and groundhog~~ and to trap any fur-bearing animal. A hunting license is not required when hunting furbearers, ~~except coyote and groundhog,~~ with a fur harvester license. However, coyote and groundhog may be hunted with either a hunting or a fur harvester license.

Sec. 3. Section 110.24, unnumbered paragraph 9, Code 1985, is amended to read as follows:

~~No~~ A person having a dog entered in a licensed field trial ~~shall be is~~ not required to have a hunting license or fur harvester license to participate in the event or to exercise the person's dog on the area on which the field trial is to be held during the twenty-four hour period immediately preceding the trial.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its



publication in the Clayton County Press-Journal, a newspaper published in Strawberry Point, Iowa, and in The Chariton Leader, a newspaper published in Chariton, Iowa.

Approved March 8, 1985

I hereby certify that the foregoing Act was published in the Clayton County Press-Journal, Strawberry Point, Iowa on March 12, 1985 and in The Chariton Leader, Chariton, Iowa on March 19, 1985.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 11**  
**HEALTH DATA COMMISSION**  
*S.F. 113*

**AN ACT** relating to the health data commission by delaying the termination of the commission, requiring certain members of the commission to implement common medical reimbursement reporting forms, and permitting the commission to initiate a review of collection of information relating to long-term care and home health care.

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

Section 1. Section 145.3, subsection 3, Code 1985, is amended by adding the following new lettered paragraphs:

**NEW LETTERED PARAGRAPH. h.** The commissioner of insurance and the commissioner of public health require the collection of physicians billing information from third-party payers as specified by the health data commission by July 1, 1986.

**NEW LETTERED PARAGRAPH. i.** The commissioner of insurance and the commissioner of public health encourage health care providers, as defined in section 514.1, except licensed physicians and chiropractors, and third-party payers to use a common reporting form.

Sec. 2. Section 145.3, subsection 4, Code 1985, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. e.** The health policy corporation of Iowa or any other corporation, association, or entity or state agency deemed appropriate begin exploring the feasibility of collecting data for long-term health care and home health care relating to cost and utilization information.

Sec. 3. Section 145.6, Code 1985, is amended to read as follows:

**145.6 REPORTS AND TERMINATION OF COMMISSION.**

The commission shall submit a an annual report on the actions taken by the commission to

the legislature not later than January 15, ~~1984~~ and January 15, ~~1985~~ of each year. The commission shall be terminated July 1, ~~1985~~ 1989. If the legislature does not extend the date for termination, a final report shall be submitted to the legislature by July 1, ~~1985~~ 1989.

Approved March 11, 1985

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## CHAPTER 12

### INTERAGENCY COORDINATING COUNCIL ON RADIATION SAFETY

*S.F. 241*

AN ACT relating to membership on the interagency coordinating council on radiation safety.

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

Section 1. Section 136B.2, Code 1985, is amended to read as follows:

**136B.2 COUNCIL CREATED.**

~~There is created an~~ The interagency co-ordinating council on radiation safety which shall be composed of the chief executive or a designee of each of the ~~is created.~~ The following state agencies are members of the council and shall be represented by the chief executive officer or a designee unless otherwise provided:

1. Department of water, air and waste management.
2. State department of health.
3. State department of transportation.
4. Department of agriculture.
5. Department of public defense.
6. Department of public safety.
7. State conservation commission.
8. Bureau of labor.
9. State board of regents.
10. Office for planning and programming.

Each member of the council ~~shall be~~ is entitled to one vote. The Iowa representative to the midwest nuclear interstate low-level radioactive waste compact ~~shall be~~ is an ex officio, non-voting member of the council.

Approved March 11, 1985

**CHAPTER 13**  
**BANK OFFICE OUTSIDE OF A CITY**  
*S.F. 286*

**AN ACT** relating to the operation of a bank or bank office located outside a municipal corporation when the bank is merged into or acquired by another state bank and providing for an effective date.

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

Section 1. Section 524.312, subsection 1, Code 1985, is amended to read as follows:

1. ~~Every~~ A state bank originally incorporated pursuant to ~~the provisions of this chapter~~ shall have its principal place of business within the confines of a municipal corporation. The existence of a state bank shall not, however, be affected by the subsequent discontinuance of the municipal corporation. A state bank existing and operating on January 1, 1970, which does not have its principal place of business within the confines of a municipal corporation, ~~shall be allowed to~~ may renew its corporate existence pursuant to ~~the provisions of section 524.106~~ without regard to this section and may also operate as a bank or convert to and operate as a bank office when acquired by or merged into another state bank and approved by the superintendent.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Bancroft Register, a newspaper published in Bancroft, Iowa, and in The Altoona Herald-Mitchellville Index, a newspaper published in Altoona, Iowa.

Approved March 12, 1985

I hereby certify that the foregoing Act was published in The Bancroft Register, a newspaper published in Bancroft, Iowa on March 20, 1985 and in The Altoona Herald-Mitchellville Index, a newspaper published in Altoona, Iowa on March 21, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 14**  
**TREATMENT OF SCHOOL FINE MONEY**  
*H.F. 87*

**AN ACT** relating to the procedure for adding moneys in a school district's budget for moneys collected under section 302.3, Code 1981, and removing those moneys from the one hundred two percent budget guarantee for school districts for the school year beginning July 1, 1985 and succeeding school years.

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

Section 1. Section 442.7, subsection 7, paragraph i, Code 1985, is amended by striking the paragraph.

Sec. 2. Section 442.9, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. The district cost for the budget year is equal to the district cost per pupil for the budget year multiplied by the weighted enrollment, plus commencing with the budget year beginning July 1, 1985 additional district cost added for moneys received by a school district under section 302.3, Code 1981, as provided in section 442.21, and plus the additional district cost allocated to the district under section 442.27 to fund media services and educational services provided through the area education agency. A school district may not increase its district cost for the budget year except to the extent that an excess tax levy is authorized by the school budget review committee as provided in section 442.13.

Sec. 3. **NEW SECTION. 442.21 TEMPORARY SCHOOL FUND.**

If the board of directors of a school district certified an amount to the state comptroller to be added to basic allowable growth per pupil for the budget year beginning July 1, 1984 under section 442.7, subsection 7, paragraph "i", Code Supplement 1983, the amount certified shall be added to the district cost of the school district commencing with the budget year beginning July 1, 1985.

Sec. 4. Procedures used and property tax levies calculated by the state comptroller for the budget year beginning July 1, 1984 under section 442.7, subsection 7, paragraph "i", Code Supplement 1983, shall be completed for that budget year.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in the Charles City Press, a newspaper published in Charles City, Iowa, and in the Fayette County Union, a newspaper published in West Union, Iowa for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1985. However, section 1 of this Act takes effect July 1, 1985.

Approved March 15, 1985

I hereby certify that the foregoing Act was published in the Charles City Press, Charles City, Iowa on March 20, 1985 and in the Fayette County Union, West Union, Iowa on March 21, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 15**  
**IOWA FAMILY FARM DEVELOPMENT AUTHORITY**  
*S.F. 117*

**AN ACT** relating to the Iowa family farm development authority by revising definitions, amending requirements relating to the board, and imposing conditions on loans made by the authority to a beginning farmer.

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

Section 1. Section 175.2, subsections 5, 9, and 13, Code 1985, are amended to read as follows:

5. "Beginning farmer" means an individual or partnership with a low or moderate net worth ~~who that~~ engages in farming or wishes to engage in farming.

9. "Low or moderate net worth" means:

a. For an individual, an aggregate net worth of ~~an~~ the individual and the individual's spouse and minor children, if any, of less than ~~one~~ two hundred thousand dollars.

b. For a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than four hundred thousand dollars. However, the aggregate net worth of each partner and that partner's spouse and minor children shall not exceed two hundred thousand dollars.

13. "Net worth" means total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the family's or partnership's net worth. Assets shall be valued at fair market value.

Sec. 2. Section 175.2, subsection 8, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

8. "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority by rules subject to chapter 17A.

Sec. 3. Section 175.3, subsections 1 and 3, Code 1985, are amended to read as follows:

1. The Iowa family farm development authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming, and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment. The powers of the authority are vested in and exercised by a board of eleven members with nine members appointed by the governor subject to confirmation by the senate. The treasurer of state or the treasurer's designee and the secretary of agriculture or the secretary's designee are ex officio nonvoting

members. No more than five appointed members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, the real estate sales industry, farmers, beginning farmers, average taxpayers, local government, and ~~any other person~~ persons specially interested in family farm development.

3. ~~Six~~ Five voting members of the authority constitute a quorum and the affirmative vote of a majority of the voting members is necessary for any substantive action taken by the authority. The majority shall not include any member who has a conflict of interest and a statement by a member of that the member has a conflict of interest shall be ~~is~~ conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

Sec. 4. Section 175.12, subsection 3, paragraphs a, c, and g, Code 1985, are amended to read as follows:

a. The beginning farmer is a resident of the state. If the beginning farmer is a partnership, all partners shall be residents of the state.

c. The beginning farmer has sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a partnership, all partners shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan.

g. ~~The~~ If the beginning farmer is an individual, the agricultural land and agricultural improvements shall only be used for farming by the beginning farmer or the farmer's family individual, the individual's spouse, the individual's minor children, or any of them. If the beginning farmer is a partnership, the agricultural land and agricultural improvements shall only be used for farming by the partners, each partner's spouse, each partner's minor children, or any of them.

Sec. 5. Section 175.12, subsection 3, paragraphs d and f, Code 1985, are amended by striking the paragraphs and inserting in lieu thereof the following:

d. A loan to a beginning farmer for the acquisition of agricultural land and agricultural improvements does not exceed five hundred thousand dollars. A loan to a beginning farmer for the acquisition of depreciable agricultural property does not exceed one hundred twenty-five thousand dollars.

f. The beginning farmer will materially and substantially participate in farming. If the beginning farmer is a partnership, each partner shall materially and substantially participate in farming.

Sec. 6. This Act, being deemed of immediate importance, takes effect from and after its publication in the Audubon News-Advocate, a newspaper published in Audubon, Iowa, and in the Kossuth County Advance, a newspaper published in Algona, Iowa.

Approved March 20, 1985

I hereby certify that the foregoing Act was published in the Kossuth County Advance, Algona, Iowa on March 23, 1985 and in the Audubon News-Advocate, Audubon, Iowa on March 27, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 16**  
**GOING-OUT-OF-BUSINESS SALES**  
*H.F. 70*

**AN ACT** relating to the conducting of going-out-of-business sales and providing for penalties.

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

Section 1. Section 714.16, subsection 2, paragraph c, Code 1985, is amended to read as follows:

c. ~~It shall be~~ is an unlawful practice for any person to advertise the sale of merchandise at reduced rates due to the cessation of business operations and after the date of the first such advertisement remain in business under the same, or substantially the same, ownership, or under the same, or substantially the same trade name, or to continue to offer for sale the same type of merchandise at the same location for more than one hundred twenty days. As used in this paragraph "person" includes a person who acquires an ownership interest in the business either within sixty days before the initial advertisement of the sale or at any time after the initial advertisement of the sale. In addition, a person acquiring an ownership interest shall comply with paragraph "g" if the person adds additional merchandise to the sale.

Sec. 2. Section 714.16, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. g.** It is an unlawful practice for a person to acquire directly or indirectly an interest in a business which has either gone out of business or is going out of business and conduct or continue a going-out-of-business sale where additional merchandise has been added to the merchandise of the liquidating business for the purposes of the sale, unless the person provides a clear and conspicuous notice in all advertisements that merchandise has been added. The advertisement shall also state the customary retail price of the merchandise that has been added or brought in for the sale. The person acquiring the interest shall obtain a permit to hold the sale before commencing the sale. If the sale is to be held in a city which has an ordinance regulating going-out-of-business sales, then the permit shall be obtained from the city. If the sale is to be located outside of a city or in a city which does not have an ordinance regulating going-out-of-business sales, then the permit shall be obtained from the county in which the proposed sale is to be held. The county board of supervisors shall prescribe the procedures necessary to obtain the permit. The permit shall state the percentage of merchandise for sale that was obtained from the liquidating business and the percentage of merchandise for sale that was added from other sources. The permit or an accurate reproduction of the permit shall be clearly and conspicuously posted at all entrances to the site of the sale and at all locations where sales are consummated. A person who violates this paragraph, including any misrepresentation of the presence and the percentage of additional merchandise that had been added to that of the liquidating company, is liable for a civil penalty of not to exceed one thousand dollars for each day of each violation. The civil penalties collected shall be deposited in the general fund of the political entity which prosecutes the violation. The civil penalty is in addition to and not in lieu of any criminal

penalty. A political entity enforcing this paragraph may obtain a preliminary injunction without posting a bond to enjoin a violation of this Act pending a hearing.

This paragraph does not prohibit a city or county from adopting an ordinance prohibiting the conducting of a going-out-of-business sale in which additional merchandise is added to the merchandise of the liquidating business for the purposes of the sale.

Approved March 21, 1985

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**CHAPTER 17**  
**ACCEPTANCE OF BOND MONEY AND SECURITIES**  
*H.F. 415*

**AN ACT** relating to the designation of persons to accept bond money and securities.

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

Section 1. Section 602.1211, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A chief judge may designate other public officers to accept bond money or security under section 811.2 at times when the office of the clerk of court is not open.

Sec. 2. Section 811.2, subsection 1, paragraph c, Code 1985, is amended to read as follows:

c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of court or a public officer designated under section 602.1211, subsection 4, in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, ~~such~~ the deposit to be returned to the defendant upon the performance of the appearances as required in section 811.6.

Approved March 21, 1985



**CHAPTER 18**  
**CUSTODY OF CHILDREN BY ABANDONED SPOUSE**  
*H.F. 421*

**AN ACT** relating to the custody of children by an abandoned spouse.

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

Section 1. Section 597.15, Code 1985, is amended to read as follows:

**597.15 CUSTODY OF CHILDREN.**

If the ~~husband~~ one spouse abandons the ~~wife~~ ~~she~~ other spouse, the abandoned spouse is entitled to the custody of the minor children, unless the district court, upon application for that purpose, ~~shall~~ otherwise ~~direct~~ directs, or unless a custody decree is entered in accordance with the provisions of chapter 598A. In this section "abandon" does not include:

1. The departure of a spouse due to physical or emotional abuse.
2. The departure of a spouse accompanied by the minor children.

Approved March 21, 1985

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**CHAPTER 19**  
**SURVIVING SPOUSE'S SHARE IN INTESTATE SUCCESSION**  
*S.F. 378*

**AN ACT** relating to the share of the surviving spouse in intestate succession.

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

Section 1. Section 633.211, Code 1985, is amended to read as follows:

**633.211 SHARE OF SURVIVING SPOUSE IF DECEDENT LEFT NO ISSUE OR LEFT ISSUE ALL OF WHOM ARE ISSUE OF SURVIVING SPOUSE.**

If the decedent dies intestate leaving a surviving spouse and leaving no issue or leaving issue all of whom are the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. ~~One-third in~~ All the value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage, which have not been sold on execution or by other judicial sale, and to which the surviving spouse has made no relinquishment of right.
2. All personal property that, at the time of death, was, in the hands of the decedent as the head of a family, exempt from execution.

3. ~~One-third of all~~ All other personal property of the decedent which is not necessary for the payment of debts and charges.

4. If the property received by the surviving spouse under subsections 1, 2 and 3 of this section is not equal in value to the sum of fifty thousand dollars, then so much additional of any remaining homestead interest and of the remaining real and personal property of the decedent that is subject to payment of debts and charges against the decedent's estate, after payment of such debts and charges, even to the extent of the whole of the net estate, as may be necessary to make the amount of fifty thousand dollars.

Sec. 2. Section 633.212, Code 1985, is amended to read as follows:

633.212 SHARE OF SURVIVING SPOUSE WHERE IF DECEDENT LEFT NO ISSUE SOME OF WHOM ARE NOT ISSUE OF SURVIVING SPOUSE.

If the decedent dies intestate leaving a surviving spouse and leaving ~~no issue some of whom~~ are not the issue of the surviving spouse, the surviving spouse shall receive the following share:

1. One-half in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage, which have not been sold on execution or by other judicial sale, and to which the surviving spouse has made no relinquishment of right.

2. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.

3. One-half of all other personal property of the decedent which is not necessary for the payment of debts and charges.

4. If the property received by the surviving spouse under subsections 1, 2 and 3 of this section is not equal in value to the sum of fifty thousand dollars, then so much additional of any remaining homestead interest and of the ~~nonexempt~~ remaining real and personal property of the decedent remaining that is subject to payment of debts and charges against the decedent's estate, after payment of the debts and charges against the estate, as may be necessary, even to the extent of the entire whole of the net estate, as necessary to make the amount of fifty thousand dollars.

5. So much additional of the remaining real and personal property belonging to the decedent as is necessary to make the entire share of the surviving spouse, including the property received under subsections 1, 3 and 4 of this section, equal in value to the aforesaid sum of fifty thousand dollars plus one-half of the net value of the estate over and above the said sum of fifty thousand dollars and the value of the exempt personal property.

Sec. 3. Section 633.436, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Except as provided in section 633.211 and 633.212, shares of the distributees shall abate, for the payment of debts and charges, federal and state estate taxes, legacies, the shares of children born or adopted after the making of a will, or the share of the surviving spouse who elects to take against the will, without any preference or priority as between real and personal property, in the following order:

Sec. 4. This Act applies to the estates of decedents dying on or after the effective date of this Act.

Approved March 22, 1985

**CHAPTER 20**  
**EMPLOYEES DECLINING TO DONATE TO CHARITY**  
*S.F. 90*

**AN ACT** to prohibit adverse personnel actions against state employees based upon the employees' declining to participate in contributions or donations to charitable or community organizations.

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

Section 1. Section 79.28, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for the employee's declining to participate in contributions or donations to charities or community organizations.

Approved March 27, 1985

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**CHAPTER 21**  
**DEPARTMENT OF CORRECTIONS REVISIONS**  
*H.F. 186*

**AN ACT** amending the Code chapters relating to the Iowa department of corrections by reorganizing the statutes, making changes to sexually discriminatory statutes dealing with both minor and adult offenders, and modifying statutes relating to allowances paid to inmates for work, absconding from work release, temporary confinement of work release violators, departmental employees as chauffeurs, and to district court reports of criminal convictions.

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

Section 1. Section 216.1, unnumbered paragraph 1, and subsection 1, unnumbered paragraph 1, Code 1985, are amended to read as follows:

It is the intent of this chapter that there be made available to inmates of the state correc-

tional institutions opportunities for employment work in meaningful jobs with the following objectives:

To develop within those inmates willing to accept and persevere in such employment work:

Sec. 2. Section 216.1, subsection 2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

To enable those inmates willing to accept and persevere in such employment work to:

Sec. 3. Section 216.2, subsection 2, Code 1985, is amended to read as follows:

2. "Iowa state industries" means prison industries that are established and maintained by the Iowa department of corrections, in consultation with the industries board, at or adjacent to the state's adult correctional institutions, except that an inmate employment work program established by the state director under section 216.5, subsection 7 is not restricted to industries at or adjacent to the institutions.

Sec. 4. Section 216.3, subsection 1, paragraph a, subparagraph (1), Code 1985, is amended to read as follows:

(1) One member shall represent agriculture and one member shall represent manufacturing, with particular reference to the roles of their constituencies as potential employers of inmates and former inmates of the state's correctional institutions.

Sec. 5. Section 216.5, subsections 3, 4, and 5, Code 1985, are amended to read as follows:

3. Establish, transfer and close industrial operations as deemed advisable to maximize opportunities for gainful employment of work for inmates and to adjust to actual or potential market demand for particular products or services.

4. Establish and from time to time adjust, as necessary, levels of pay for allowances paid to inmates employed by working in Iowa state industries.

5. Co-ordinate Iowa state industries, and other opportunities for gainful employment work available to inmates of adult correctional institutions, with vocational and technical training opportunities and apprenticeship programs, to the greatest extent feasible.

Sec. 6. Section 216.5, subsection 7, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Implement an inmate employment work program ~~to employ~~ for trustworthy inmates of state correctional institutions, under proper supervision, whether at employment work centers located outside the state correctional institutions or in construction or maintenance work at public or charitable facilities, which shall meet the following conditions:

Sec. 7. Section 216.5, subsection 7, paragraph d, subparagraph (2), and paragraph e, Code 1985, are amended to read as follows:

(2) Exhibits appropriate conduct to enable the participant to ~~be employed~~ work outside the state correctional institutions without constituting a threat to the security of the local community.

e. The state director may ~~promulgate~~ adopt rules allowing inmates participating in a program to receive educational or vocational training outside the state correctional institutions and away from the employment work centers or public or charitable facilities utilized under a program.

Sec. 8. Section 216.8, subsection 3, Code 1985, is amended to read as follows:

3. A department or agency of the state shall cooperate and enter into agreements, if possible, for the provision of products and services under an inmate employment work program established by the state director under section 216.5, subsection 7.

Sec. 9. Section 216.9, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. Payment of all costs incurred by the industries board, including but not limited to per diem and expenses of its members, and of salaries, allowances, support and maintenance of Iowa state industries. Payments from the revolving fund authorized by this subsection shall be made in the same manner as payments from appropriations for salaries, allowances, support and maintenance of the institutions under the jurisdiction of the state director.

Sec. 10. Section 216.10, subsection 2, paragraph a and subsection 3, Code 1985, are amended to read as follows:

a. All persons employed working in the factory or other commercial enterprise operated in the leased property, except the lessee's supervisory employees and necessary training personnel approved by the industries board, shall be inmates of the institution where the leased property is located who are approved for such employment work by the state director and the lessee.

3. Except as prohibited by applicable provisions of the United States Code, inmates of adult correctional institutions of this state may be employed work in the manufacture and processing of products for introduction into interstate or intrastate commerce, so long as they are paid wages allowances commensurate with those wages paid persons employed in similar jobs outside the correctional institutions.

Sec. 11. Section 216.12, subsections 1 and 2, Code 1985, are amended to read as follows:

1. Wages Allowances paid to inmates are commensurate with those wages paid employees doing similar work. This may include piece rating for which the individual would be paid only for what is produced. The private employer shall pay to Iowa state industries at a rate commensurate with wages paid to other workers performing similar work.

2. Such paid inmate employment work will not result in displacement of employed workers.

Sec. 12. Section 216.13, Code 1985, is amended to read as follows:

216.13 INMATE EMPLOYEES' PAY ALLOWANCE SUPPLEMENT REVOLVING FUND.

There is established in the treasury of the state a permanent adult correctional institutions inmate employees' pay allowance supplement revolving fund, consisting solely of money paid as board and maintenance by inmates employed by working in Iowa state industries, or employed working pursuant to section 216.10. The fund established by this section may be used to supplement the pay allowances of inmates who perform other institutional work within and about the adult correctional institutions including those who are employed by working in Iowa state industries. Payments made from ~~such~~ the fund shall supplement and not replace all or any part of the pay allowances otherwise received by, and shall be equably distributed among such inmates. The employment work of inmates to ~~perform in~~ other institutional or industry work shall, to the greatest extent feasible, be in accord with the intent stated in section 216.1. The fund may also be used to supplement other rehabilitation activities within the adult correctional institutions. Determination of the use of the funds is the responsibility of the director of adult corrections who shall first seek the advice of the prison industries advisory board.

Sec. 13. Section 217A.2, subsections 5 and 6, are amended by striking the subsections and inserting in lieu thereof the following:

5. North central correctional facility at Rockwell City.

6. Mount Pleasant correctional facility.

Sec. 14. Section 217A.5, Code 1985, is amended by adding the following new subsection and renumbering as necessary:

NEW SUBSECTION. 6. Report biennially to the governor a summary of releases recommended, paroles granted, parole revocations, and other information relating to the parole of inmates as the board deems advisable.

Sec. 15. Section 217A.8, subsection 6, Code 1985, is amended to read as follows:

6. The director or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person released on work release has ~~violated the conditions of the person's absconded from a work release facility~~, may make a complaint before a judge or magistrate ~~charging the violation~~. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or ~~violated the terms of the person's absconded from a work release facility~~, the judge or magistrate shall issue a warrant for the arrest of the person.

Sec. 16. Section 217A.23, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The superintendents and employees of the correctional institutions shall receive salaries or compensation as determined by the director, shall receive a midshift meal when on duty, and shall be provided uniforms if uniforms are required to be worn when on duty. The uniforms shall be maintained and replaced by the department at no cost to the employees and shall remain the property of the department.

Sec. 17. Section 217A.31, subsection 1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The director may transfer at the expense of the state department an inmate of one institution to another ~~similar~~ institution under the director's control if the director is satisfied that the transfer is in the best interests of the institutions or inmates.

PARAGRAPH DIVIDED. The director may transfer at the expense of the department an inmate under the director's jurisdiction from any institution supervised by the director to another institution under the control of a director of a division of the department of human services with the consent and approval of the other director and may transfer an inmate to any other institution for mental or physical examination or treatment retaining jurisdiction over the inmate when so transferred.

Sec. 18. Section 217A.31, subsection 2, Code 1985, is amended to read as follows:

2. When the state director has cause to believe that a ~~prisoner~~ an inmate in a state correctional institution is mentally ill, the Iowa department of corrections may cause ~~that prisoner the inmate~~ to be transferred to the Iowa medical and classification center for examination, diagnosis, or treatment. The ~~prisoner inmate~~ shall be confined at that institution or a state hospital for the mentally ill until the expiration of the ~~prisoner's inmate's~~ sentence or until the ~~prisoner inmate~~ is pronounced in good mental health. If the ~~prisoner inmate~~ is pronounced in good mental health before the expiration of the ~~prisoner's inmate's~~ sentence, the ~~prisoner inmate~~ shall be returned to the state correctional institution until the expiration of the ~~prisoner's inmate's~~ sentence. ~~The provisions of the Code applicable to an inmate at the correctional institution from which the prisoner is transferred remain applicable during the inmate's stay at the Iowa medical and classification center. However, section 246.32 applies to the total inmate population, including both convicts and patients.~~

Sec. 19. Section 217A.31, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The director shall assure that an inmate transferred pursuant to this section is accompanied by a person of the same sex as the inmate.

Sec. 20. Section 217A.32, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall keep other records for the use of the board of parole as the board of parole may request.

Sec. 21. NEW SECTION. 217A.33 DISCIPLINARY PROCEDURES – USE OF FORCE.

1. Inmates who disobey the disciplinary rules of the institution to which they are committed shall be punished by the imposition of the penalties prescribed in the disciplinary rules, according to the following guidelines:

a. To ensure that sanctions are imposed only at such times and to such a degree as is necessary to regulate inmate behavior within the limits of the disciplinary rules and to promote a safe and orderly institutional environment.

b. To control inmate behavior in an impartial and consistent manner.

c. To ensure that disciplinary procedures are fair and that sanctions are not capricious or retaliatory.

d. To prevent the commission of offenses through the deterrent effect of the sanctions available.

e. To define the elements of each offense and the penalties which may be imposed for violations, in order to give fair warning of prohibited conduct.

f. To provide procedures for preparation of reports of disciplinary actions, for conducting disciplinary hearings, and for processing of disciplinary appeals.

2. The superintendent of each institution shall maintain a register of all penalties imposed on inmates and the cause for which the penalties were imposed.

3. A correctional officer of a correctional institution or the officer's assistant shall, in case an inmate resists the officer's or assistant's lawful authority, or refuses to obey the officer's or assistant's lawful command, only use such force as is reasonably necessary under all attendant circumstances. The use of a deadly weapon is justified under conditions of extreme necessity and as a last resort to protect the life or safety of a person. The use of a deadly weapon is not justified solely to prevent damage to or destruction of property where there is no danger to the life or safety of a person. An officer or assistant is justified in using force which causes injury or death to an inmate if the officer's or assistant's actions comply with the requirements of this subsection.

Sec. 22. Section 217A.39, Code 1985, is amended to read as follows:

**217A.39 FEDERAL PRISONERS.**

Inmates sentenced for any term by any court of the United States may be received by the ~~warden or~~ superintendent of a state correctional institution and kept there in pursuance of their sentences. ~~Inmates~~ The director may transfer inmates at state correctional institutions ~~may also be transferred to the federal bureau of prisons.~~

Sec. 23. Section 217A.46, Code 1985, is amended to read as follows:

**217A.46 SERVICES REQUIRED — WAGES GRATUITOUS ALLOWANCES.**

Inmates of the institutions may be required to ~~render perform~~ any proper and reasonable service suited to their strength and attainments, for the benefit of the institutions or the welfare of the inmates, either in the institutions proper or in the industries established in connection with them. When an inmate of an institution is working outside the institution proper, the inmate shall be deemed at all times to be in the actual custody of the superintendent of the institution.

The director may when practicable pay the inmate ~~a wage an allowance~~ as the director deems proper in view of the circumstances, and in view of the cost attending the maintenance of the inmate. The allowance is a gratuitous payment and is not a wage arising out of an employment relationship. The wage payment shall not exceed the amount paid to free labor for a like or equivalent service.

Sec. 24. Section 217A.47, Code 1985, is amended to read as follows:

**217A.47 DEDUCTION TO PAY COURT COSTS OR DEPENDENTS — DEPOSITS.**

If ~~wages allowances~~ are paid pursuant to section 217A.46, the director may deduct an amount established by the inmates' restitution plan of payment. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may pay all or

any part of remaining wages allowances paid pursuant to section 217A.46 directly to a dependent of the inmate, or may deposit the wage allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 25. Section 217A.66, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The superintendent of each institution shall receive and care for any property an inmate may possess on the inmate's person upon entering the institution, and on the discharge of the inmate, return the property to the inmate or the inmate's legal representatives, unless the property has been previously disposed of according to the inmate's written designation or policies prescribed by the board. The superintendent may place an inmate's money at interest, keeping an account of the money and returning the remaining money and interest upon discharge.

Sec. 26. Section 217A.78, Code 1985, is amended to read as follows:

217A.78 EMPLOYMENT SERVICES OF INMATES – INSTITUTIONS AND PUBLIC SERVICE.

Inmates shall be employed work only on state account in the maintenance of state institutions, in the erection, repair, authorized demolition, or operation of buildings and works used in connection with the institutions, and in industries established and maintained in connection with the institutions by the state director. The state director may detail ~~prisoners~~ inmates classified as trustees, from correctional institutions under the control of the state director to perform public service for the conservation commission and other agencies of state, county, or local government. The supervision, security, and transportation of, and ~~compensation of allowances paid to~~ inmates used in public service projects shall be provided pursuant to agreements made by the state director and the agency of state, local, or county government for which the work is done. Housing and maintenance shall also be provided pursuant to the agreement unless the inmate is housed and maintained in the correctional facility. All such employment work, including but not limited to that provided in this section, shall have as its primary purpose, and shall provide for, inculcation or the reactivation of attitudes, skills, and habit patterns which will be conducive to inmate rehabilitation.

However, an inmate shall not be employed work in a public service project if the ~~employment work~~ of that inmate would replace a person employed by the state agency or political subdivision, which employee is performing the work of the public service project at the time the inmate is being considered for employment work in the project.

Sec. 27. Section 217A.79, Code 1985, is amended to read as follows:

217A.79 LIMITATION ON CONTRACT.

The state director or the ~~wardens~~ and superintendents of the institutions shall not, nor shall any other person employed by the state, make any contract by which the labor or time of a ~~prisoner~~ or an inmate in the institution is given, loaned, or sold to any person unless as provided by chapter 216 or section 217A.78.

Sec. 28. Section 217A.80, Code 1985, is amended to read as follows:

217A.80 VISITATIONS.

Members of the executive council, the attorney general, the lieutenant governor, members of the general assembly, judges of the supreme and district court and court of appeals, judicial magistrates, county attorneys and persons ordained or designated as regular leaders of a religious community are authorized to visit all institutions under the control of the Iowa department of corrections ~~and the state training school~~ at reasonable times. No other person shall be granted admission except by permission of the ~~warden~~ or superintendent.



Sec. 29. NEW SECTION. 217A.85 IOWA MEDICAL AND CLASSIFICATION CENTER.

1. The Iowa medical and classification center at Oakdale shall be utilized as a forensic psychiatric hospital for persons displaying evidence of mental illness or psychosocial disorders and requiring diagnostic services or treatment in a security setting, as a security unit for persons requiring confinement in a security setting, and as a classification unit for the reception, orientation, and classification of inmates before placement in the most appropriate correctional institutions according to necessary security and custody arrangements and the assessed service needs of the inmates.

2. The superintendent of the center shall secure the professional care and treatment of each person confined at the center and maintain a complete record on the condition of each person confined at the center.

3. The forensic psychiatric hospital may admit the following persons:

a. Residents transferred from an institution under the jurisdiction of the department of human services or the Iowa department of corrections.

b. Persons committed by the courts as mentally incompetent to stand trial under section 812.4.

c. Persons referred by the courts for psychosocial diagnosis and recommendations as part of the pretrial or presentence procedure or determination of mental competency to stand trial.

d. Prisoners transferred from county and city jails for diagnosis, evaluation, or treatment for mental illness.

Other persons may be admitted providing the admissions are not inconsistent with law and are within the capacity of the facilities and staff to accommodate the persons.

4. The classification unit shall admit inmates for purposes of orientation and classification before placement in the most appropriate correctional institutions.

5. The director may house inmates from any correctional institution at the center in order to provide the inmates with suitable security or medical treatment, or both. Unless an inmate is determined to be mentally ill, the inmate shall not be subjected involuntarily to psychiatric treatment.

6. All admissions to the forensic psychiatric hospital shall be by written application only. Application shall be made by the head of the state institution, agency, governmental body, or court requesting admission to the superintendent of the center. An application may be denied by the superintendent, with the approval of the director, if the admission will result in an overcrowded condition or if adequate staff or facilities are not available. The decision regarding admission and discharge of persons shall be made by the superintendent of the center, subject to approval of the director.

7. When a person transferred to the center from any other state institution or admitted by request or order of any agency, governmental body, or court no longer requires special treatment in the security setting, the person may be returned to the source from which received. The state institution, agency, governmental body, or court that referred the person for hospitalization shall retain constructive jurisdiction over the person. Persons without legal encumbrances may be discharged directly from the center upon concurrence of the superintendent of the center and the head of the referring institution, agency, governmental body, or court. The support, commitment, and release statutes applicable to a person at the state institution from which transferred shall remain applicable while the person is at the center.

8. Chapter 230 governs the determination of costs and charges for the care and treatment of mentally ill persons admitted to the forensic psychiatric hospital, except that charges for the care and treatment of any person transferred to the forensic psychiatric hospital from an adult correctional institution or from a state training school shall be paid entirely from state funds. Charges for all other persons at the forensic psychiatric hospital shall be billed to the respective counties at the same ratio as for patients at state mental health institutes under section 230.20.

Sec. 30. NEW SECTION. 217A.86 NORTH CENTRAL CORRECTIONAL FACILITY AT ROCKWELL CITY.

The state correctional facility at Rockwell City shall be utilized as a medium security correctional facility for men.

Sec. 31. NEW SECTION. 217A.87 MOUNT PLEASANT CORRECTIONAL FACILITY — SPECIAL TREATMENT UNIT.

The correctional facility at Mount Pleasant shall be utilized as a medium security facility for men primarily for treatment of inmates who exhibit treatable personality disorders, with or without accompanying history of drug or alcohol abuse. Such inmates may apply for and upon their application may be selected for treatment by the staff of the treatment facility at Mount Pleasant in accordance with section 217A.31.

Sec. 32. NEW SECTION. 217A.88 CLARINDA CORRECTIONAL FACILITY.

The state correctional facility at Clarinda shall be utilized as a secure men's correctional facility primarily for chemically dependent, mentally retarded, and socially inadequate offenders.

Sec. 33. NEW SECTION. 217A.89 CORRECTIONAL RELEASE CENTER AT NEWTON.

1. The correctional release center at Newton shall be utilized for the preparation of inmates of the correctional institutions for discharge or parole. The director may transfer an inmate of a correctional institution within ninety days of the inmate's release from custody to the correctional release center for intensive training to assist the inmate in the transition to civilian living. The statutes applicable to an inmate at the corrective institution from which transferred shall remain applicable during the inmate's stay at the correctional release center.

2. The superintendent of the correctional release center shall be a reputable and qualified person experienced in the administration of programs for the rehabilitation and preparation of inmates for their return to society.

Sec. 34. Section 218B.2, Article III, subsection 3, Code 1985, is amended to read as follows:

3. Participation in programs of inmate ~~employment work~~, if any; the disposition or crediting of any payments received by inmates on account ~~thereof of the work~~; and the crediting of proceeds from or disposal of any products resulting ~~therefrom from the work~~.

Sec. 35. Section 229.1, subsection 8, paragraph c, Code 1985, is amended to read as follows:

c. Any other publicly supported hospital or institution, or part ~~thereof of such hospital or institution~~, which is equipped and staffed to provide inpatient care to the mentally ill, except ~~that this definition is not applicable to the Iowa medical and classification center established by chapter 223 217A.~~

Sec. 36. Section 229.26, Code 1985, is amended to read as follows:

229.26 EXCLUSIVE PROCEDURE FOR INVOLUNTARY HOSPITALIZATION.

Sections 229.6 to 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that ~~nothing in this chapter negates does not negate~~ the provisions of sections 245.12 and 217A.31, subsection 2

section 217A.31 relating to transfer of mentally ill prisoners to state hospitals for the mentally ill ~~or applies and does not apply~~ to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, 2d ed.

Sec. 37. Section 242.4, Code 1985, is amended to read as follows:

242.4 INSTRUCTION AND EMPLOYMENT.

The state director shall cause the children in the state training school to be instructed on the Constitutions of the United States and of this state as is required in the common schools, and in such branches of useful knowledge as are adapted to their age and capacity, including the effect of alcoholic liquors, stimulants, and narcotics on the human system, and in some regular course of labor, either mechanical, agricultural, or manufacturing, as is best suited to their age, strength, disposition, capacity, reformation, and well-being.

Sec. 38. NEW SECTION. 242.16 VISITATIONS.

Members of the executive council, the attorney general, the lieutenant governor, members of the general assembly, judges of the supreme and district court and court of appeals, magistrates, county attorneys and persons ordained or designated as regular leaders of a religious community are authorized to visit the state training school at reasonable times. No other person shall be granted admission except by permission of the superintendent.

Sec. 39. Section 244.3, subsection 1, Code 1985, is amended by striking the subsection.

Sec. 40. Section 247A.10, subsection 1, Code 1985, is amended to read as follows:

1. Upon request by the Iowa department of corrections or a judicial district department of correctional services a county shall provide temporary confinement for alleged violators of work release conditions if space is available.

Sec. 41. Section 321.1, subsection 43, Code 1985, is amended to read as follows:

43. "Chauffeur" means ~~any~~ a person who operates a motor vehicle, including a school bus, in the transportation of persons for wages, compensation or hire, or ~~any~~ a person who operates a truck tractor, road tractor or any motor truck which is required to be registered at a gross weight classification exceeding five tons, or any such motor vehicle exempt from registration which would be within the gross weight classification if not so exempt. ~~except~~ A person is not a chauffeur when the operation of the motor vehicle by the owner or operator is occasional and merely incidental to the owner or operator's principal business.

PARAGRAPH DIVIDED. A person is not a chauffeur when the operation is by a volunteer fire fighter operating fire apparatus, or is by a volunteer ambulance or rescue squad attendant operating ambulance or rescue squad apparatus. If a volunteer fire fighter or ambulance or rescue squad operator receives nominal compensation not based upon the value of the services performed, the fire fighter or operator shall be considered to be receiving no compensation and classified as a volunteer.

If authorized to transport inmates, probationers, parolees, or work releasees by the director of the Iowa department of corrections or the director's designee, an employee of the Iowa department of corrections or a district department of correctional services is not a chauffeur when transporting the inmates, probationers, parolees, or work releasees in an automobile.

Subject to the ~~provisions~~ of section 321.179, a farmer or the farmer's hired help ~~shall is not be deemed~~ a chauffeur, when operating a truck owned by the farmer, and used exclusively in connection with the transportation of the farmer's own products or property.

Sec. 42. Section 331.510, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 43. Section 356.4, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

#### 356.4 SEPARATION OF MEN AND WOMEN.

All jails shall be equipped with separate cells for men and women. Men and women prisoners shall not be allowed in the same cell within a jail at the same time.

Sec. 44. Section 448.12, Code 1985, is amended to read as follows:

#### 448.12 LIMITATION OF ACTIONS.

~~No~~ An action for the recovery of real estate sold for the nonpayment of taxes shall not be brought after five years from the execution and recording of the treasurer's deed, unless the owner is, at the time of the sale, a minor, mentally ill person, or ~~convict~~ an inmate in the penitentiary an adult correctional institution, in which case such action must be brought within five years after such disability is removed.

Sec. 45. Section 602.8102, subsection 44, Code 1985, is amended to read as follows:

44. Certify to the warden of the ~~penitentiary or men's reformatory~~ or to the superintendent of the ~~Iowa~~ each correctional institution ~~for women~~ the number of days that have been credited toward completion of an inmate's sentence as provided in section ~~246.38~~ 903A.5.

Sec. 46. Section 602.8102, subsection 45, Code 1985, is amended by striking the subsection.

Sec. 47. Section 812.5, Code 1985, is amended to read as follows:

#### 812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

If the accused is committed to the department of human services, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the ~~prisoner~~ accused will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that the accused can effectively assist in the accused's defense, ~~that the~~ department shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, must shall receive and hold the accused in custody until the accused is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning the accused, or any other, to be paid in the first instance by the county from which the accused is sent, but such county may recover the same from another county or municipal body ~~bound~~ required to provide for or maintain the accused elsewhere, and the sheriff shall be allowed for the sheriff's services the same fees as are allowed for conveying ~~convicts~~ persons to the ~~penitentiary institutions~~ under section 331.655.

Sec. 48. Section 815.8, Code 1985, is amended to read as follows:

#### 815.8 SHERIFF'S FEES.

For delivering ~~prisoners~~ defendants under the change of venue provisions of R.Cr.P. 10 or transferring ~~prisoners~~ arrested persons under section 804.24, sheriffs are entitled to the same fees as are allowed for the conveyance of ~~convicts~~ persons to the ~~penitentiary institutions~~ under section 331.655.

Sec. 49. Section 901.7, Code 1985, is amended to read as follows:

#### 901.7 COMMITMENT TO CUSTODY.

In imposing a sentence of confinement for more than one year, the court shall commit the defendant to the custody of the director of the Iowa department of corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of the commitment. The court shall make an order as appropriate for the temporary custody of the defendant pending the defendant's transfer to the custody of the director. The court shall order the county where a person was convicted to pay the cost of temporarily confining the person and of transporting the person to the state institution where the person is to be confined in execution of the judgment. The order shall require that a person transported to a state institution pursuant to this section shall be accompanied by a person of the same sex.

Sec. 50. NEW SECTION. 904.6 REPORTS TO THE DEPARTMENT OF CORRECTIONS.

The board of parole shall make detailed reports to the board of corrections as requested by the board of corrections or the director of the department of corrections.

Sec. 51. Section 905.7, subsection 4, Code 1985, is amended to read as follows:

4. Provide for gathering and evaluating performance data relative to the district department's community-based correctional program and make other detailed reports to the Iowa department of corrections as requested by the board of corrections or the director of the department of corrections.

Sec. 52. Section 906.5, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Within one year after the commitment of a person other than a class "A" felon to the custody of the director of the Iowa department of corrections, a member of the board shall interview the person. Thereafter, at regular intervals, not to exceed one year, the board shall interview the person and consider the person's prospects for parole. At such the time of an interview, the board shall consider all pertinent information regarding this person, including the circumstances of the person's offense, any presentence report which ~~may be~~ is available, the previous social history and criminal record of the person, the person's conduct, ~~employment work,~~ and attitude in prison, and the reports of physical and mental examinations that have been made.

Sec. 53. REPEALS.

1. Chapters 223, 245, 246, and 246A, Code 1985, are repealed.

2. Sections 247.29 through 247.32, and 247A.1, Code 1985, are repealed.

Sec. 54. CODIFICATION. In the codification of this Act, the Code editor shall:

1. Transfer chapter 217A relating to the Iowa department of corrections to new chapter 246, divide the chapter into divisions, and rearrange the order of sections as necessary.

2. Transfer chapter 216 relating to Iowa state industries as a separate division to new chapter 246.

3. Transfer chapter 218B relating to the interstate corrections compact to new chapter 247.

4. Transfer section 247.40 relating to the interstate probation and parole compact to new chapter 907A.

5. Transfer sections 247A.2 through 247A.5 and 247A.7 through 247A.11 relating to inmate work release as a separate division to new chapter 246.

However, if the Code arrangement required by this section is not feasible or is not satisfactory to the Code editor, the Code editor may rearrange the affected chapters and sections as necessary.

Approved March 27, 1985

**CHAPTER 22**  
PUBLIC CONTRACTS FOR DEMOLITION  
*H.F. 311*

**AN ACT** to provide that demolition contracts are public improvements.

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

Section 1. Section 573.1, subsection 3, Code 1985, is amended to read as follows:

3. "Construction" shall, in addition to its ordinary meaning, ~~embrace~~ includes repair, ~~and~~ alteration and demolition.

Approved March 27, 1985

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**CHAPTER 23**  
ACCEPTANCE OF FEDERAL REHABILITATION AMENDMENTS  
*S.F. 149*

**AN ACT** relating to the acceptance of the federal rehabilitation acts.

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

Section 1. Section 259.1, Code 1985, is amended to read as follows:

259.1 ACCEPTANCE OF FEDERAL ACT.

The state of Iowa ~~does hereby~~, through its legislative authority, ~~accept~~ accepts the provisions and benefits of the ~~Act~~ Acts of Congress, entitled "The Rehabilitation Act of 1973" (~~P. L. Pub. L. No. 93-112~~) ~~and~~ (~~P. L. 95-602~~) entitled the, "The Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978" (Pub. L. No. 95-602) ~~and the~~ "Rehabilitation Amendments of 1984" (Pub. L. No. 98-221) as codified in 29 U.S.C. 701.

Approved March 27, 1985

**CHAPTER 24**  
**PROGRAMS FOR CHILDREN NEEDING SPECIAL EDUCATION**  
*S.F. 215*

**AN ACT** requiring a free and appropriate public education for children requiring special education.

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

Section 1. Section 281.2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

It is the policy of this state to ~~provide and to require school districts to make provision, as an integral part of public education, for special education opportunities sufficient to meet the needs and maximize the capabilities of and state operated educational programs to provide or make provision, as an integral part of public education, for a free and appropriate public education sufficient to meet the needs of all~~ children requiring special education. This chapter is not to be construed as encouraging separate facilities or segregated programs designed to meet the needs of children requiring special education when ~~such~~ the children can benefit from all or part of the education program as offered by the local school district. To the maximum extent possible, children requiring special education shall attend regular classes and shall be educated with children who do not require special education. Whenever possible, hindrances to learning and to the normal functioning of children requiring special education within the regular school environment shall be overcome by the provision of special aids and services rather than by separate programs for those in need of special education. Special classes, separate schooling or other removal of children requiring special education from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the educational handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily. For those children who cannot adapt to the regular educational or home living conditions, and who are attending facilities under chapters 263, 269 and 270, upon the request of the board of directors of an area education agency, the department of human services shall provide residential or detention facilities and the area education agency shall provide special education programs and services. The area education agencies shall co-operate with the board of regents to provide the services required by this Act.

Approved March 27, 1985

**CHAPTER 25**  
**RENEWAL OF INCORPORATED TRUST COMPANY**  
*H.F. 395*

**AN ACT** permitting the articles of incorporation of a trust company existing and operating on January 1, 1970 and which is authorized to act only as a trust company to be renewed in perpetuity.

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

Section 1. Section 524.1005, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**524.1005 TRUST COMPANIES OPERATING ON JANUARY 1, 1970.**

A trust company existing and operating on January 1, 1970 and which was authorized to act only as a trust company may continue to act only in a fiduciary capacity according to the terms of its articles of incorporation. The articles of incorporation of the trust company may be renewed in perpetuity. When applicable, this chapter applies to the operations of the trust company. Section 524.107, subsection 2, regarding the use of the word "trust" does not apply to a trust company subject to this section.

Approved March 29, 1985



**CHAPTER 26**  
**FARM IMPLEMENT FRANCHISES**  
*H.F. 41*

**AN ACT** relating to farm implement franchises and providing an effective date by publication.

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

Section 1. Section 322D.2, subsection 4, Code 1985, is amended by striking the subsection.

Sec. 2. NEW SECTION. 322D.7 APPLICATION.

This chapter applies to all agreements now in effect which have no expiration date and all other agreements entered into or renewed after the effective date of this Act. Any agreement in effect on the effective date of this Act which by its own terms will terminate on a subsequent date shall be governed by the law as it existed prior to the effective date of this Act.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Marshalltown Times-Republican, a newspaper published in Marshalltown, Iowa, and in The Malvern Leader, a newspaper published in Malvern, Iowa.

Approved March 29, 1985

I hereby certify that the foregoing Act was published in the Marshalltown Times-Republican, Marshalltown, Iowa on April 5, 1985 and in The Malvern Leader, Malvern, Iowa on April 11, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 27**  
**CONTEMPT POWERS OF JUVENILE COURT REFEREES**  
*H.F. 587*

**AN ACT** relating to the authorization of contempt powers for juvenile court referees and providing penalties.

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

Section 1. Section 665.4, subsection 3, Code 1985, is amended to read as follows:

3. Before judicial magistrates and juvenile court referees, by a fine not exceeding one hundred dollars or imprisonment in a county jail not exceeding thirty days.

Approved April 4, 1985

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**CHAPTER 28**  
**APPOINTMENT OF SCHOOL BOARD SECRETARY**  
*S.F. 150*

**AN ACT** relating to the appointment date for a secretary of a school board.

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

Section 1. Section 279.3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

At a regular or special meeting of the board held in July or August prior to or on July August 15 the board shall appoint a secretary who shall not be a teacher employed by the board but may be another employee of the board. The board shall also appoint a treasurer who may be another employee of the board. However, the board may appoint one person to serve as the secretary and the treasurer.

Sec. 2. A term of a secretary of a school board shall be extended from the date in July when the secretary was appointed in 1984 until a successor is appointed and qualified in July or August of 1985.

Approved April 8, 1985

**CHAPTER 29**  
**GUARDIANSHIPS AND CONSERVATORSHIPS**  
*S.F. 531*

**AN ACT** relating to guardianships and conservatorships.

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

Section 1. Section 633.552, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. By reason of mental, physical or other incapacity ~~lacks sufficient capacity is unable to~~ make or carry out important decisions concerning the proposed ward's person or affairs, other than financial affairs, ~~and, as a result, is in danger of substantially endangering the proposed ward's health or of becoming subject to abuse by other persons.~~

Sec. 2. Section 633.554, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**633.554 NOTICE TO PROPOSED WARD.**

If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice. If the proposed ward is a minor or if the proposed ward is an adult under a standby order and the court determines, pursuant to section 633.561, subsection 1, that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

Sec. 3. Section 633.561, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**633.561 REPRESENTATION.**

1. In a proceeding for the appointment of a guardian, if the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. In a proceeding for the appointment of a guardian, if the proposed ward is a minor or if the proposed ward is an adult under a standby order, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation shall be made only after notice to the proposed ward is made as the court deems necessary.

2. The court shall ensure that all proposed wards entitled to representation have been provided with notice of the right to representation and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

3. If the proposed ward is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the proposed ward. The cost of court appointed counsel for indigents shall be assessed against the county in which the proceedings are pending. For the purposes of this subsection, the court shall find a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level or the person would be unable to pay such costs without prejudicing the

person's financial ability to provide economic necessities for the person or the person's dependents.

4. An attorney appointed pursuant to this section shall:

a. Ensure that the proposed ward has been properly advised of the nature and purpose of the proceeding.

b. Ensure that the proposed ward has been properly advised of the ward's rights in a guardianship proceeding.

c. Personally interview the proposed ward.

d. File a written report stating whether there is a return on file showing that proper service on the proposed ward has been made and also stating that specific compliance with paragraphs "a" through "c" has been made or stating the inability to comply by reason of the proposed ward's condition.

e. Represent the proposed ward.

f. Ensure that the guardianship procedures conform to the statutory and due process requirements of Iowa law.

5. In the event that an order of appointment is entered, the attorney appointed pursuant to this section, to the extent possible, shall:

a. Inform the proposed ward of the effects of the order entered for appointment of guardian.

b. Advise the ward of the ward's rights to petition for modification or termination of the guardianship.

c. Advise the ward of the rights retained by the ward.

6. If the court determines that it would be in the ward's best interest to have legal representation with respect to any proceedings in a guardianship, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate, or if the ward is indigent the cost of the court-appointed attorney shall be assessed against the county in which the proceedings are pending.

Sec. 4. Section 633.566, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. By reason of mental, physical or other incapacity ~~lacks sufficient capacity is unable to~~ make or carry out important decisions concerning the proposed ward's financial affairs ~~and, as a result, is in danger of substantially endangering the proposed ward's health or of becoming subject to abuse by other persons.~~

Sec. 5. Section 633.568, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

#### 633.568 NOTICE ON PROPOSED WARD.

If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice. If the proposed ward is a minor and the court determines, pursuant to section 633.561, subsection 1, that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

Sec. 6. Section 633.575, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

#### 633.575 REPRESENTATION.

1. In a proceeding for the appointment of a conservator, if the proposed ward is an adult and

is not the petitioner, the proposed ward is entitled to representation. In a proceeding for the appointment of a conservator, if the proposed ward is a minor or where the proposed ward is an adult under a standby petition, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation shall be made only after notice to the proposed ward is made as the court deems necessary.

2. The court shall ensure that all proposed wards entitled to representation have been provided with notice of the right to representation and shall make findings of fact in any order of disposition setting out the manner in which notification was provided.

3. If the proposed ward is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the proposed ward. The cost of court appointed counsel for indigents shall be assessed against the county in which the proceedings are pending. For the purposes of this subsection, the court may find a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level.

4. An attorney appointed pursuant to this section, to the extent possible, shall:

a. Ensure that the proposed ward has been properly advised of the nature of the proceeding and its purpose.

b. Ensure that the proposed ward has been properly advised of the ward's rights in a conservatorship proceeding.

c. Personally interview the proposed ward.

d. Represent the proposed ward.

e. Ensure that the conservatorship procedures conform to the statutory and due process requirements of Iowa law.

f. Inform the proposed ward of the effects of any order entered by the court, including the effects of an order entered for appointment of conservator.

g. Advise the ward, if an order for appointment of conservator is entered, of the ward's rights to petition for modification or termination of conservatorship.

h. Advise the ward, if a conservator is appointed, of the rights retained by the ward.

5. An attorney appointed pursuant to this section shall file an answer stating whether there is a return on file showing that proper service on the proposed ward has been made. The answer shall also state that specific compliance with subsection 4 has been made by the attorney or stating the inability to comply with subsection 4 by reason of the proposed ward's condition.

6. If the court determines that it would be in the ward's best interest to have legal representation with respect to any proceedings in a conservatorship, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate, or if the ward is indigent the cost of the court-appointed attorney shall be assessed against the county in which the proceedings are pending.

Sec. 7. Section 633.635, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. Arranging the provision of major elective surgery or any other nonemergency major medical procedure.

~~If the court determines that it would be in the ward's best interest to have legal representation with respect to proceedings under this subsection, the court may appoint an attorney to represent the ward at the expense of the ward or the ward's estate.~~

Sec. 8. Section 633.668, Code 1985, is amended to read as follows:

**633.668 CONSERVATOR MAY MAKE GIFTS.**

For good cause shown and under order of court, a conservator may make gifts on behalf of the ward out of the assets under a conservatorship to persons or religious, educational, scientific, charitable, or other nonprofit organizations to whom or to which such gifts were regularly made prior to the commencement of the conservatorship, or on a showing to the court that such gifts would benefit the ward or the ward's estate from the standpoint of income, gift, estate or inheritance taxes. The making of gifts out of ~~such~~ the assets must not foreseeably impair the ability to provide adequately for the best interests of the ward.

Sec. 9. Section 633.669, Code 1985, is amended to read as follows:

**633.669 REPORTING REQUIREMENTS – ASSISTANCE BY CLERK.**

1. A guardian appointed under this chapter shall file with the court the following written verified reports:

- a. An initial report within sixty days of the guardian's appointment.
- b. An annual report which shall be filed within thirty days of the anniversary of the granting of the guardianship unless the court otherwise orders on good cause shown.
- c. A final report within thirty days of the termination of the guardianship under section 633.675 unless that time is extended by the court.

2. Reports required by this section must include:

- a. The current mental, and physical and social condition of the ward.
- b. The present living arrangement of the ward, including a description of each residence where the ward has resided during the reporting period.
- c. A summary of the medical, educational, vocational and other professional services provided for the ward.
- d. A description of the guardian's visits with and activities on behalf of the ward.
- e. A recommendation as to the need for continued guardianship.
- f. Other information requested by the court or useful in the opinion of the guardian.

3. The court shall develop a simplified uniform reporting form for use in filing the required reports.

4. The clerk of the court shall notify the guardian in writing of the reporting requirements and shall provide information and assistance to the guardian in filing the reports and with respect to other responsibilities, powers and duties of the guardian.

5. Reports of guardians shall be reviewed and approved by a district court judge or referee.

6. Reports required by this section shall, if requested, be served on the attorney appointed to represent the ward in the guardianship proceeding and all other parties appearing in the proceeding.

Sec. 10. Section 633.670, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**633.670 REPORTING REQUIREMENTS.**

1. A conservator appointed under this chapter shall file with the court:

a. An inventory within sixty days of the conservator's appointment. This inventory shall include all property of the ward that has come into the conservator's possession or of which the conservator has knowledge. When additional property comes into the possession of the conservator or to the knowledge of the conservator, a supplemental inventory shall be filed within thirty days.

b. Written verified reports and accountings as follows:

- (1) Annually unless the court otherwise orders on good cause shown.

- (2) Within thirty days following the date of removal.
  - (3) Upon filing resignation and before the resignation is accepted by the court.
  - (4) Within sixty days following the date of termination.
  - (5) At other times as the court may order.
2. The clerk of court shall notify the conservator in writing of the reporting requirements.
  3. Reports of conservators shall be reviewed and approved by a district court judge or referee.

Sec. 11. Section 633.642, Code 1985, is repealed.

Approved April 12, 1985

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**CHAPTER 30**  
**RESIDENCE OF TOWNSHIP OFFICERS**  
*S.F. 261*

**AN ACT** relating to the residence of township officers.

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

Section 1. Section 39.22, Code 1985, is amended to read as follows:

**39.22 TOWNSHIP OFFICERS.**

Township trustees and the township clerk ~~shall~~, in townships which ~~embrace no do not~~ include a city, shall be elected by the voters of the entire township. In townships which ~~embrace include~~ include a city, ~~said~~ the officers shall be elected by the voters of the township who reside outside the corporate limits of ~~such the city; but any such officer may be a resident and the~~ such the city; but any such officer may be a resident and the officers shall reside in the township outside the corporate limits of said the city.

Approved April 12, 1985

**CHAPTER 31**  
**NONPROFIT CORPORATIONS AS GUARDIANS**  
*H.F. 29*

**AN ACT** relating to qualification of nonprofit corporations as guardians.

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

Section 1. Section 633.63, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** A private nonprofit corporation organized under chapter 504 or 504A is qualified to act as a guardian, as defined in section 633.3, subsection 19, if the department of human services, under rules established by the department, finds the corporation a suitable agency to perform such duties and determines that the corporation does not possess a proprietary or legal interest in an organization which provides direct services to the individual.

Approved April 12, 1985



**CHAPTER 32****SALES AND LOCAL OPTION TAXES AND WINE SALES***S.F. 395*

**AN ACT** relating to state and local revenues by providing for the private sale of wine containing more than five percent but not more than seventeen percent alcohol by weight, imposing a tax on wine to be sold, allowing cities and counties to impose certain local option taxes, exempting and providing refunds until the exemption begins of the sale or lease of certain farm machinery and equipment, including certain replacement parts, and certain industrial machinery, equipment and computers, including certain replacement parts, from the state sales, services and use tax, providing for setting aside of revenues to pay such refunds and not including certain increases in revenues in computing the state percent of growth for purposes of chapter 442, amending the state sales, services and use tax to impose the tax on the rendering or furnishing of additional services, and on sales of certain tangible personal property, to alter certain definitions, and to provide exemptions and limit others, increasing the tax on tobacco products and on cigarettes and little cigars, imposing an inventory tax on cigarettes and little cigars, unused tax stamps and metered imprints and granting one-time credit purchase on cigarette tax stamps, providing for the phase out and repeal of all property taxes on personal property, and providing penalties, appropriations and effective dates, making permanent the exemption from property taxation of certain pollution control property, providing for the special valuation of certain machinery, equipment and computers acquired after a certain date and limiting the applicability of the present special valuation to that property acquired before a certain date, amending the lottery law to provide for fifty percent of the projected annual revenue from the sales of lottery tickets or shares be used for payment of prizes, and imposing the state sales, services and use tax on the sales of lottery tickets and shares, eliminating the prohibition on the manufacture of electronic and computerized gambling devices, providing a new jobs tax credit for computing the individual and corporate tax liabilities of certain businesses that create new jobs within the state, providing that for purposes of property taxation the term "computer" does not include point of sales equipment and providing penalties and appropriations.

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

Section 1. Section 98.6, subsection 2, Code 1985, is amended to read as follows:

2. Notwithstanding subsection 1, there is imposed beginning July 1, 1981 and shall be collected and paid to the department a tax on all cigarettes used or otherwise disposed of in this state for any purpose at the rate of nine mills on each cigarette for the period beginning July 1, 1981 and ending September 30, 1985 and at the rate of thirteen mills on each cigarette beginning October 1, 1985.

Sec. 2. Section 98.43, subsections 1 and 2, Code 1985, are amended to read as follows:

1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of ~~ten~~ fifteen percent of the

wholesale sales price of ~~such~~ the tobacco products, except little cigars as defined in section 98.42. Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 98.6, payable at the time and in the manner provided in section 98.6; and stamps shall be affixed as provided in division I of this chapter. The tax on tobacco products, excluding little cigars, shall be imposed at the time the distributor does any of the following:

a. Brings, or causes to be brought, into this state from without the state tobacco products for sale;

b. Makes, manufactures, or fabricates tobacco products in this state for sale in this state; ~~or~~.

c. Ships or transports tobacco products to retailers in this state, to be sold by those retailers.

2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon ~~such~~ the consumers, at the rate of ~~ten~~ fifteen percent of the cost of ~~such~~ the tobacco products.

The tax imposed by this subsection shall not apply if the tax imposed by subsection 1 on ~~such~~ the tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

a. Less than 25 cigars;

b. Less than 10 oz. snuff or snuff powder;

c. Less than 1 lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 3. Section 123.1, Code 1985, is amended to read as follows:

#### 123.1 PUBLIC POLICY DECLARED.

This chapter shall be cited as the "Iowa Beer, Wine, and Liquor Control Act", and shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose, ~~and it~~. It is declared to be public policy that the traffic in alcoholic liquors is so affected with a public interest that it should be regulated to the extent of prohibiting all traffic in them, except as provided in this chapter.

Sec. 4. Section 123.2, Code 1985, is amended to read as follows:

#### 123.2 GENERAL PROHIBITION.

It ~~shall be~~ is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in this chapter.

Sec. 5. Section 123.3, subsections 4, 7, 8, and 10, Code 1985, are amended to read as follows:

4. "Local authority" means the city council of any incorporated city in this state, or the county board of supervisors of any county in this state, which is empowered by this chapter to approve or deny applications for retail beer or wine permits and liquor control licenses; empowered to recommend that such permits or licenses be granted and issued by the department; and empowered to take ~~such~~ other actions as ~~are~~ reserved to them by this chapter.

7. "Wine" means any beverage containing more than five percent but not more than seven-teen percent of alcohol by weight obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses or cactus.

8. "Alcoholic liquor", "alcoholic beverage" or "intoxicating liquor" means ~~and includes~~ the varieties of liquor defined in subsections 5, ~~and 6, and 7~~, beverages made as described in subsection 9 which beverages contain more than five percent of alcohol by weight but which are not wine as defined in subsection 7, and every other liquid or solid, patented or not, containing ~~spirits or wine and every beverage obtained by the process described in subsection 7~~ containing more than seventeen percent alcohol by weight, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an "alcoholic liquor".

10. "Person" means any individual, association, partnership, corporation, club, hotel or motel, or municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor, wine, or beer is only an incidental part of ~~such the~~ ownership or operation.

Sec. 6. Section 123.3, subsection 11, paragraph c, Code 1985, is amended to read as follows:

c. The person is not prohibited by the ~~provisions of~~ section 123.40 from obtaining a liquor control license or a wine or beer permit.

Sec. 7. Section 123.3, subsections 13, 17, 19, 20, 25, 26, 27, and 31, Code 1985, are amended to read as follows:

13. "Permit" or "license" means an express written authorization issued by the department for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

17. "Distillery", "winery", and "brewery" ~~means mean~~ not only the premises ~~wherein~~ where alcohol or spirits ~~is are~~ distilled, ~~or rectified~~ wine is fermented, or beer is brewed, but in addition mean a person owning, representing, or in charge of such premises and the operations conducted ~~thereon there~~, including the blending and bottling or other handling and preparation of alcoholic liquor, wine, or beer in any form.

19. "Importer" means the person ~~transporting or ordering, authorizing, or arranging who transports or orders, authorizes, or arranges~~ the transportation of alcoholic liquor, wine, or beer into this state whether ~~such the~~ person is a resident of this state or not.

20. "Import" means the transporting or ordering or arranging the transportation of alcoholic liquor, wine, or beer into this state whether by a resident of this state or not.

25. The prohibited "sale" of alcoholic liquor, wine, or beer under this chapter includes soliciting for sales, taking orders for sales, keeping or exposing for sale, delivery or other trafficking for a valuable consideration promised or obtained, and procuring or allowing procurement for any other person.

26. "Wholesaler" means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. ~~No A wholesaler shall be permitted to not~~ sell for consumption upon the premises.

27. "Retailer" means any person who shall sell, barter, exchange, offer for sale, or have in possession with intent to sell any alcoholic liquor for consumption on the premises where sold, or beer or wine for consumption either on or off the premises where sold.

31. "Licensed premises" or "premises" means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the director where alcoholic beverages, wine, or beer is sold or consumed under authority of a liquor control license, wine permit, or beer permit. A single licensed premise may consist of multiple rooms, enclosures, areas or places if they are wholly within the confines of a single building or contiguous grounds.

Sec. 8. Section 123.3, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. "Retail wine permit" means a class "B" wine permit issued under this chapter.

Sec. 9. Section 123.4, Code 1985, is amended to read as follows:

**123.4 DEPARTMENT CREATED – PLACE OF BUSINESS.**

~~There is hereby created an~~ An Iowa beer and liquor control department is created to administer and enforce the laws of this state concerning beer, wine, and alcoholic liquor. The principal place of business of the department shall be provided the department by the authority designated by law to provide such quarters or offices to state departments or agencies.

Sec. 10. Section 123.6, Code 1985, is amended to read as follows:

**123.6 APPOINTMENT – TERM – QUALIFICATIONS – COMPENSATION.**

Appointments shall be for five-year staggered terms beginning and ending as provided by section 69.19 and shall be made by the governor, subject to confirmation by the senate. Members of the council shall be chosen on the basis of managerial ability and experience as business executives. One member of the council may be the holder of or have an interest in a permit or license to manufacture alcoholic liquor, wine, or beer or sell alcoholic liquor, wine, or beer at wholesale or retail. Members may be reappointed for one additional term. Each member appointed shall receive compensation for the member's services of forty dollars per diem in addition to reasonable and necessary expenses while attending meetings.

Sec. 11. Section 123.14, subsections 1 and 3, Code 1985, are amended to read as follows:

1. The division of beer and liquor law enforcement of the department of public safety, created pursuant to section 80.25, ~~shall be~~ is the primary beer, wine, and liquor law enforcement authority for this state.

3. The division of beer and liquor law enforcement shall ~~be allowed~~ have full access to all records, reports, audits, tax reports and all other documents and papers in the department pertaining to liquor licensees and wine and beer permittees and their business.

Sec. 12. Section 123.15, Code 1985, is amended to read as follows:

**123.15 HEARING BOARD ESTABLISHED.**

~~There is hereby created a~~ A three-member hearing board is created for the purpose of conducting departmental hearings relating to controversies concerning the issuance, suspension, or revocation of special liquor permits, liquor control licenses, wine permits, and beer permits authorized under this chapter. One member shall be appointed by the council from its membership, which member may be periodically replaced by appointment of another council member; one member shall be the attorney general or the attorney general's designee; and one member shall be the commissioner of public safety or the commissioner's designee. The hearing board shall establish and adopt rules and procedures for conducting departmental hearings under this chapter.

Sec. 13. Section 123.16, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. The granting or refusing of liquor licenses and permits, wine permits, and beer permits, and the suspension or revocation of ~~such the~~ licenses and permits.

Sec. 14. Section 123.18, Code 1985, is amended to read as follows:

**123.18 FAVORS FROM LICENSEE OR PERMITTEE.**

~~No~~ A person responsible for the administration or enforcement of this chapter shall not accept or solicit donations, gratuities, political advertising, gifts, or other favors, directly or indirectly, from any liquor control licensee, wine permittee, or beer permittee. A violation of this section shall subject the violator to the general penalties provided by this chapter.

Sec. 15. Section 123.19, subsection 1, Code 1985, is amended to read as follows:

1. Any manufacturer, distiller, ~~vintner~~, or importer of alcoholic beverages shipping, selling, or having alcoholic beverages brought into this state for resale by the state shall, as a condition precedent to the privilege of so trafficking in alcoholic liquors in this state, annually make

application for and shall hold a distiller's certificate of compliance which shall be issued by the director for such that purpose. No brand of alcoholic liquor shall be sold by the department in this state unless the manufacturer, distiller, vintner, importer, and all other persons participating in the distribution of such that brand in this state have obtained such a certificate. Such The certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the director unless otherwise suspended or revoked for cause. Each application for a certificate of compliance or renewal thereof shall be made in such a manner and upon such forms as shall be prescribed by the director and shall be accompanied by a fee of fifty dollars payable to the department. However, the provisions of this subsection need not apply to a manufacturer, distiller, vintner, or importer who ships or sells in this state no more than eleven gallons or its case equivalent during any fiscal year as a result of "special orders" which might be placed, as defined and allowed by departmental rules adopted under this chapter.

Sec. 16. Section 123.21, subsections 6 and 10, Code 1985, are amended to read as follows:

6. Providing for the ~~issuing issuance and distributing~~ distribution of price lists showing which show the price to be paid by purchasers for each brand, class, or variety of liquor kept for sale under this chapter. ~~Provide, providing~~ for the filing or posting of prices charged in sales between class "A" beer and class "A" wine permit holders and retailers, as provided in this chapter, and ~~establish~~ establishing or control such controlling the prices as may be based on minimum standards of fill, quantity, or alcoholic content for each individual sale of intoxicating liquor or beer as deemed necessary for retail or consumer protection. ~~However, the department does not have the authority to regulate~~ markups, prices, discounts, allowances, or other terms of sale at which wine may be purchased and sold by class "A" and retail wine permittees, or change, nullify, or vary the terms of any agreement between a holder of a vintner certificate of compliance and a class "A" wine permittee.

10. Prescribing the time, manner, means, and method by which distillers, vintners, vendors, or others authorized under this chapter may deliver or transport alcoholic liquors and prescribing the time, manner, means, and methods by which alcoholic liquor may be lawfully conveyed, carried, or transported.

Sec. 17. Section 123.21, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Providing for the issuance of combination licenses and permits with fees consistent with individual license and permit fees as may be necessary for the efficient administration of this chapter.

Sec. 18. Section 123.22, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The department ~~shall have~~ has the sole and exclusive right of importation, into the state, of all forms of alcoholic liquor, except as otherwise provided in this chapter, and ~~no~~ a person shall ~~so~~ not import any such alcoholic liquor, except that an individual of legal age may import and have in the individual's possession an amount of alcoholic liquor not exceeding one quart or, in the case of alcoholic liquor personally obtained outside the United States, one gallon for personal consumption only in a private home or other private accommodation. No distillery shall sell any alcoholic liquor within the state to any person but only to the department, except as otherwise provided in this chapter. It is the intent of this section to vest in the department exclusive control within the state both as purchaser and vendor of all alcoholic liquor sold by distilleries within the state or imported therein, except beer and wine, and except as otherwise provided in this chapter. The department may continue to purchase wine from persons holding a vintner's certificate of compliance or a class "A" wine permit for resale in state liquor stores.

Sec. 19. Section 123.23, Code 1985, is amended to read as follows:

**123.23 STATE LIQUOR STORES.**

The department shall establish and maintain in any city which the director deems advisable, a state liquor store or stores for storage and sale of alcoholic liquor and wine in accordance with this chapter. The department may, from time to time, as determined by the director, fix the prices of the different classes, varieties, or brands of alcoholic liquor and wine to be sold. Prior to a decision to establish, relocate or discontinue a state liquor store, the director shall appoint a designee to conduct a public hearing on the decision within the city affected.

Sec. 20. Section 123.27, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 21. Section 123.29, subsection 4, paragraph c, Code 1985, is amended to read as follows:

c. That neither the applicant, if the applicant is an individual, nor any members of the firm or officers of the corporation, if the applicant is not an individual, has been convicted of any violation of the laws of this state with reference to the sale of alcoholic liquors, wine, or beer within the three years preceding the date of the affidavit.

Sec. 22. Section 123.30, subsection 3, paragraphs a, b, c, and d, Code 1985, are amended to read as follows:

a. CLASS "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from only the department, wine from the department or class "A" wine permittees, and native wines from native wine manufacturers, and to sell ~~such~~ liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

b. CLASS "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from only the department, wine from the department or class "A" wine permittees, and native wines from native wine manufacturers, and to sell ~~such~~ liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises described in the application.

c. CLASS "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from only the department, wine from the department or class "A" wine permittees, and native wines from native wine manufacturers, and to sell ~~such~~ liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises.

A special class "C" liquor control license may be issued and shall authorize the holder ~~or holders~~ to purchase wine ~~containing not more than seventeen percent alcohol by weight~~ from the department or class "A" wine permittees only, and to sell ~~such~~ wine, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face ~~"alcoholic liquor, that the license is limited to wine only."~~

d. CLASS "D". A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described ~~herein~~ in this section, or aircraft, respectively. Each ~~such~~ license ~~shall be~~ is valid throughout the state as a state license. Only one ~~such~~ license ~~shall be~~ is required for all trains, watercraft, or aircraft operated in the state by the licensee.

Sec. 23. Section 123.32, subsections 1, 2, and 4, Code 1985, are amended to read as follows:

1. FILING OF APPLICATION. An application for a class "A", class "B", or class "C" liquor control license, ~~and for a retail beer permit as provided in sections 123.128 and 123.129, or for a class "B" retail wine permit as provided in section 123.176,~~ accompanied by the required fee and bond, shall be filed with the appropriate city council if the premises for which the license or permit is sought are located within the corporate limits of a city, or with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city. An application for a class "D" liquor control license and for a class "A" beer or class "A" wine permit, accompanied by the required fee and bond, shall be filed with the department, which shall proceed in the same manner as in the case of an application approved by local authorities.

2. ACTION BY LOCAL AUTHORITIES. The local authority shall either approve or disapprove the issuance of a liquor control license, retail wine permit, or retail beer permit, and shall endorse ~~such~~ its approval or disapproval on the application and shall forward ~~same~~ the application along with the required fee and bond to the department. Upon the initial ~~issuance~~ of application for a liquor control license, retail wine permit, or retail beer permit, the fact that the local authority determines that no liquor control license, retail wine permit, or retail beer permit shall be issued shall not be held to be arbitrary, capricious, or without reasonable cause. There ~~shall be~~ is no limit upon the number of liquor control licenses, retail wine permits, or retail beer permits which may be approved for issuance by local authorities.

4. APPEAL TO HEARING BOARD. Any applicant for a liquor control license, wine permit, or beer permit may appeal from the director's disapproval of an application for a license or permit to the department hearing board, established pursuant to section 123.15, ~~from the director's disapproval of an application for a license or permit.~~ If, upon ~~such~~ appeal the hearing board ~~shall determine~~ determines that the local authority acted arbitrarily, capriciously, or without reasonable cause in disapproving the application, or that, where the local authority approved the application, the director's own disapproval should be reversed, it shall order issuance of a license or permit. The same right of appeal to the hearing board shall be afforded a liquor control licensee, wine permittee, or beer permittee, whose license or permit has been suspended or revoked under this chapter, and the hearing board shall reduce the period of suspension or order reinstatement of ~~such~~ the license or permit for good cause shown.

Sec. 24. Section 123.34, Code 1985, is amended to read as follows:

1. Liquor control licenses, wine permits, and beer permits, unless sooner suspended or revoked, expire one year from date of issuance. The director shall give sixty days' written notice of the expiration to each licensee or permittee. However, the director may issue six-month or eight-month seasonal licenses, class "B" wine permits, or class "B" beer permits for a proportionate part of the license or permit fee or may issue fourteen-day liquor licenses, wine permits, or beer permits as provided in subsection 2. No refund shall be made for seasonal licenses or permits or for fourteen-day liquor licenses, wine permits, or beer permits. No seasonal license or permit shall be renewed except after a period of two months.

2. The director may issue fourteen-day class "A", class "B", class "C", and class "D" liquor control licenses, fourteen-day class "B" wine permits, and fourteen-day class "B" beer permits. A fourteen-day license or permit, if granted, is valid for fourteen consecutive days, but the holder shall not sell on the two Sundays in the fourteen-day period unless the holder qualifies for and obtains the privilege to sell on Sundays contained in sections 123.36, subsection 6 and 123.134, subsection 5.

3. The fee for a fourteen-day liquor license, wine permit, or beer permit is one-quarter of the annual fee for that class of liquor license or beer permit. The fee for the privilege to sell on the two Sundays in the fourteen-day period is twenty percent of the price of the fourteen-day liquor license, wine permit, or beer permit.

Sec. 25. Section 123.35, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The director shall prescribe simplified application forms for the renewal of liquor control licenses, wine permits, and beer permits issued under the provisions of this chapter, which may be filed by licensees and permittees in lieu of a detailed renewal application form when qualifications and qualification information have not changed since the original issuance of the license or permit. ~~Such~~ The simplified form shall require the licensee or permittee to verify under oath that the information contained in the original application remains current, and that no reason exists for the department's refusal to renew the license or permit as originally issued.

Sec. 26. Section 123.36, subsection 2, Code 1985, is amended to read as follows:

2. Class "A" liquor control licenses, the sum of six hundred dollars, except that for class "A" licenses in cities of less than two thousand population, and for clubs of less than two hundred fifty members, the license fee shall be four hundred dollars; however, the fee shall be two hundred dollars for any club which is a post, branch, or chapter of a veterans organization chartered by the Congress of the United States, if ~~such~~ the club does not sell or permit the consumption of alcoholic beverages, wine, or beer on the premises more than one day in any week, and if the application for a license states that ~~such~~ the club does not and will not sell or permit the consumption of alcoholic beverages, wine, or beer on the premises more than one day in any week.

Sec. 27. Section 123.36, subsection 5, paragraph c, Code 1985, is amended to read as follows:

c. For air common carriers, each company shall pay a base annual fee of five hundred dollars and, in addition, shall quarterly remit to the department an amount equal to seven dollars for each gallon of alcoholic liquor sold, given away, or dispensed in or over this state during the preceding calendar quarter. The class "D" license fee and tax for air common carriers ~~shall be~~ is in lieu of any other fee or tax collected from ~~such~~ the carriers in this state for the possession and sale of alcoholic liquor, wine, and beer.

Sec. 28. Section 123.36, subsection 6, Code 1985, is amended to read as follows:

6. Any club, hotel, motel, or commercial establishment holding a liquor control license for whom the sale of goods and services other than alcoholic liquor, wine, or beer constitutes fifty percent or more of the gross receipts from the licensed premises, subject to the provisions of section 123.49, subsection 2, paragraph "b", may sell and dispense alcoholic liquor and wine to patrons on Sunday for consumption on the premises only, and beer for consumption on or off the premises between the hours of ten a.m. and twelve midnight on Sunday. For the privilege of selling beer, wine, and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license. The department shall prescribe the nature and the character of the evidence ~~which~~ shall be required of the applicant under this subsection.



Sec. 29. Section 123.36, subsection 7, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~Class Special class "C" liquor control licenses which limit sales of alcoholic liquor to wine containing not more than seventeen percent alcohol by weight, a sum as follows:~~

Sec. 30. Section 123.37, Code 1985, is amended to read as follows:

**123.37 POWER TO LICENSE AND LEVY TAXES.**

The power to establish licenses and permits and levy taxes as imposed in title VI of the Code is vested exclusively with the state. Unless specifically provided, no local authority shall levy a local tax on the sale of alcoholic beverages, wine, or beer, require the obtaining of a special license or permit for such sale ~~on~~ at any establishment, or require the obtaining of a license by any person as a condition precedent to the person's employment in the sale, serving, or handling of alcoholic beverages, wine, or beer, within an establishment operating under a license or permit.

Sec. 31. Section 123.38, unnumbered paragraphs 1 and 2, Code 1985, are amended to read as follows:

A special liquor permit, liquor control license, wine permit, or beer permit ~~shall be~~ is a purely personal privilege and ~~be~~ is revocable for cause. ~~It shall~~ is not constitute property nor ~~be~~ is subject to attachment and execution nor be alienable nor assignable, and ~~in any case it shall cease upon the death of the permittee or licensee. However, the director may in the director's discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same it.~~

Any ~~such~~ licensee or permittee, or the licensee's or permittee's executor, or administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of the licensee's or permittee's creditors, may voluntarily surrender ~~such~~ a license or permit to the department ~~and when so~~. When a license or permit is surrendered the department shall notify the local authority, and the department and such or the local authority, or the local authority by itself in the case of a retail beer permit, shall refund to the person so surrendering the license or permit, a proportionate amount of the fee paid received by the department or the local authority for such the license or permit as follows: If a license or permit is surrendered during the first three months of the period for which said license or permit it was issued, the refund shall be three-fourths of the amount of the fee; if surrendered more than three months but not more than six months after issuance, the refund shall be one-half of the amount of the fee; if surrendered more than six months but not more than nine months after issuance, the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for any special liquor permit, nor for a liquor control license, wine permit, or beer permit surrendered more than nine months after issuance. For purposes of this paragraph, any portion of license or permit fees used for the purposes authorized in section 331.424, subsection 1, paragraphs "a", "b", "c", "d", "e", "f", "g", and "h", shall not be deemed received either by the department or by a local authority. No refund shall be made to any licensee or permittee, upon the surrender of the license or permit, if there is at the time of said surrender, a complaint filed with the department or local authority, charging the licensee or permittee with a violation of the provisions of this chapter. If upon a hearing on any such a complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be is eligible, upon surrender of the license or permit, to receive a refund as herein provided. But in this section; but if the license or permit

is revoked or suspended upon such hearing the licensee or permittee shall ~~is not be~~ eligible for the refund of any portion of the license or permit fee.

Sec. 32. Section 123.39, Code 1985, is amended to read as follows:

123.39 SUSPENSION OR REVOCATION OF LIQUOR LICENSE OR BEER PERMIT.

Any liquor control license, wine permit, or beer permit issued under this chapter may, after notice in writing to the license or permit holder and reasonable opportunity for hearing, and subject to section 123.50 where applicable, be suspended for a period not to exceed one year or revoked by the local authority or the director for any of the following causes:

1. Misrepresentation of any material fact in the application for such the license or permit.
2. Violation of any of the provisions of this chapter.
3. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the local authority and the department.
4. An event which would have resulted in disqualification from receiving such the license or permit when originally issued.
5. Any sale, hypothecation, or transfer of such the license or permit.
6. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the department under this chapter when due.

Local authorities shall have the power to ~~may~~ suspend any retail wine or beer permit or liquor control license for a violation of any ordinance or regulation adopted by such the local authority. Local authorities are empowered to ~~may~~ adopt ordinances or regulations for the location of the premises of retail wine or beer and liquor control licensed establishments and are empowered to ~~local authorities may~~ adopt ordinances, not in conflict with the provisions of this chapter and that do not diminish the hours during which beer, wine, or alcoholic beverages may be sold or consumed at retail, governing any other activities or matters which may affect the retail sale and consumption of beer, wine, and alcoholic liquor and the health, welfare and morals of the community involved.

When a liquor license or wine or beer permit is suspended after a hearing as a result of violations of the provisions of this chapter by the licensee, permittee or the licensee's or permittee's agents or employees, the premises which were licensed by such the license or permit shall not be relicensed for a new applicant until the suspension has terminated or time of suspension has elapsed, or ninety days have elapsed since the commencement of the suspension, whichever occurs first. However, ~~nothing in this section shall does not~~ prohibit the premises from being relicensed to a new applicant before the suspension has terminated or before the time of suspension has elapsed or before ninety days have elapsed from the commencement of the suspension, if the premises prior to the time of the suspension had been purchased under contract, and the vendor under that contract had exercised the person's rights under chapter 656 and sold the property to a different person who is not related to the previous licensee or permittee by marriage or within the third degree of consanguinity or affinity and if the previous licensee or permittee does not have a financial interest in the business of the new applicant.

Sec. 33. Section 123.40, Code 1985, is amended to read as follows:

123.40 EFFECT OF REVOCATION.

Any liquor control licensee, wine permittee, or beer permittee whose license or permit is revoked under this chapter shall not thereafter be permitted to hold a liquor control license, wine permit, or beer permit in the state of Iowa for a period of two years from the date of such revocation. ~~The A spouse and or business associates associate~~ holding ten percent or more of

the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license, wine permit, or beer permit, and no liquor control license, wine permit, or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two years from the date of such revocation. ~~In the event~~ If a license or permit is revoked, the premises which had been covered by ~~such the~~ license or permit shall not be relicensed for one year.

Sec. 34. Section 123.44, Code 1985, is amended to read as follows:

#### 123.44 GIFT OF LIQUORS PROHIBITED.

~~No~~ A manufacturer or wholesaler shall not give away any alcoholic liquor of any kind or description at any time in connection with the manufacturer's or wholesaler's business except for testing or sampling purposes only. ~~No~~ A manufacturer, vintner, wholesaler, or importer, organized as a corporation pursuant to the laws of this state or any other state, ~~and~~ who deals in alcoholic liquor, wine, or beer subject to this chapter shall not offer or give anything of value to any council member, official or employee of the department, or directly or indirectly contribute in any manner any money or thing of value to any person seeking a public or appointive office or any recognized political party or a group of persons seeking to become a recognized political party.

Sec. 35. Section 123.45, Code 1985, is amended to read as follows:

#### 123.45 INTEREST IN LIQUOR BUSINESS.

Except as provided in section 123.6, a council member or department employee shall not, directly or indirectly, individually, or as a member of a partnership or shareholder in a corporation, have any interest in dealing in or in the manufacture of alcoholic liquor, wine, or beer, and shall not receive any kind of profit nor have any interest in the purchase or sale of alcoholic liquor, wine, or beer by persons so authorized under this chapter. However, this provision shall does not prohibit any ~~such~~ member or employee from lawfully purchasing and keeping alcoholic liquor, wine, or beer in the member's or employee's possession for personal use.

~~No~~ A person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, wine, or beer, ~~nor~~ or any jobber or agent of such person, shall not directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of business of a licensee or permittee authorized under ~~the provisions~~ of this chapter, to sell at retail; nor shall the person directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under ~~the provisions~~ of this chapter to sell at retail, except that a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be the holder of a class "A" beer permit, may be granted not more than one class "B" permit as defined in section 123.124 for such purpose. Any licensee or permittee who ~~shall permit permits or assent or be assents to or is a party in any way to any such violation or infringement of the provisions of this chapter shall be deemed~~ section is guilty of a violation of ~~the provisions of this chapter~~ section.

Sec. 36. Section 123.46, Code 1985, is amended to read as follows:

123.46 CONSUMPTION IN PUBLIC PLACES — INTOXICATION.

It is unlawful for any person to use or consume alcoholic liquors, wine, or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors, wine, or beer on any public school property or while attending any public or private school related functions, and ~~no~~ a person shall not be intoxicated nor simulate intoxication in a public place. As used in this section, "school" means a school or that portion ~~thereof~~ of a school, which provides teaching for any grade from kindergarten through grade twelve. Any person violating any ~~provisions~~ provision of this section shall be is guilty of a simple misdemeanor.

Sec. 37. Section 123.47, Code 1985, is amended to read as follows:

123.47 PERSONS UNDER LEGAL AGE.

~~No~~ A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age, and ~~no~~ a person or persons under legal age shall not individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

Sec. 38. Section 123.49, subsection 1, Code 1985, is amended to read as follows:

1. ~~No~~ A person shall not sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

Sec. 39. Section 123.49, subsection 2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~No~~ A person or club holding a liquor control license or retail wine or beer permit under this chapter, ~~nor~~ and the person's or club's agents or employees, shall not do any of the following:

Sec. 40. Section 123.49, subsection 2, paragraphs c through i, Code 1985, are amended to read as follows:

c. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision ~~shall~~ does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

d. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the department ~~or from a native wine manufacturer, except still wines placed in dispensing or serving containers for temporary storage,~~ and except mixed drinks or cocktails mixed on the premises for immediate consumption. This prohibition does not apply to common carriers holding a class "D" liquor control license.

e. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been so reused or adulterated.

f. Any Employ a person under eighteen years of age shall ~~not~~ be employed in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

g. Allow any person other than the licensee, permittee, or employees of ~~such~~ the licensee or permittee, to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as permitted in section 123.95. This paragraph ~~shall~~ does not apply to the lodging quarters of a class "B" liquor control licensee or wine or beer permittee, or to common carriers holding a class "D" liquor control license.

h. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or having reasonable cause to believe the person to be under legal age, or permit any person, knowing or having reasonable cause to believe the person to be under legal age, to consume any alcoholic beverage, wine, or beer.

i. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

Sec. 41. Section 123.49, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. k. Sell or dispense any wine on the premises covered by the permit or permit the consumption on the premises between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a wine permit authorized to sell wine on Sunday may sell or dispense wine between the hours of ten a.m. and twelve midnight on Sunday.

Sec. 42. Section 123.49, subsections 3 and 4, Code 1985, are amended to read as follows:

3. No person under legal age shall misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee. If any person under legal age ~~shall misrepresent~~ misrepresents the person's age, and the licensee or permittee establishes that the licensee or permittee made reasonable inquiry to determine whether ~~such~~ the prospective purchaser was over legal age, ~~such~~ the licensee or permittee ~~shall~~ is not be guilty of selling alcoholic liquor, wine, or beer to minors.

4. No privilege of selling alcoholic liquor, wine, or beer on Sunday as provided in sections 123.36, subsection 6, and 123.134, subsection 5, shall be granted to a club or other organization which places restrictions on admission or membership in the club or organization on the basis of sex, race, religion, or national origin. However, the privilege may be granted to a club or organization which places restrictions on membership on the basis of sex, if the club or organization has an auxiliary organization open to persons of the other sex.

Sec. 43. Section 123.50, subsections 2 and 3, Code 1985, are amended to read as follows:

2. The conviction of any liquor control licensee, wine permittee, or beer permittee for a violation of any of the provisions of section 123.49 ~~shall~~, subject to subsection 3 of this section, ~~be~~ is grounds for the suspension or revocation of the license or permit by the department or the local authority. However, if any liquor control licensee is convicted of any violation of subsection 2, paragraphs "a", "d" or "e", of ~~such~~ that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the department.

3. If any licensee, wine permittee, beer permittee, or employee of ~~such~~ a licensee or permittee ~~shall be~~ is convicted of a violation of section 123.49, subsection 2, paragraph "h", or if a retail wine or beer permittee ~~shall be~~ is convicted of a violation of paragraph "i" of ~~such~~ that subsection, the director or local authority shall, in addition to the other penalties fixed for such violations by this section, assess a penalty as follows:

a. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen days.

b. Upon a second conviction within a period of two years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of thirty days.

c. Upon a third conviction within a period of five years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of sixty days.

d. Upon a fourth conviction within a period of five years, the violator's liquor control license, wine permit, or beer permit shall be revoked.

Sec. 44. Section 123.51, subsection 3, Code 1985, is amended to read as follows:

3. No signs or other matter advertising any brand of beer or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer or wine at retail. This subsection ~~shall~~ does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.

Sec. 45. Section 123.53, subsection 2, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All moneys received by the department from the issuance of vintner's certificates of compliance and wine permits shall be transferred by the state comptroller to the general fund of the state.

Sec. 46. Section 123.53, subsections 3 and 7, Code 1985, are amended to read as follows:

3. The treasurer of state shall semiannually distribute a sum of money equal to at least ten percent of the gross sales made by the state liquor stores but not less than six million four hundred thousand dollars to the cities of the state. Such amount shall be distributed to the cities of the state in proportion to the population that each incorporated city bears to the total population of all incorporated cities of the state as computed by the latest federal census. A city may have one special federal census taken each decade, and the population figure thus obtained shall be used in apportioning amounts under this subsection beginning the calendar year following the year in which the special census is certified by the secretary of state. Such apportionment shall be made semiannually as of July 1 and January 1 of each year. Warrants for the same shall be issued by the state comptroller upon certification of the treasurer of state and mailed to the city clerk of each incorporated city of the state and shall be made payable to such incorporated city and shall be subject to expenditure under the direction of the city council or other governing bodies of such incorporated city for any lawful municipal purpose. It shall be a lawful municipal purpose for cities to allocate a portion of the above funds for the purpose of financing the activities of a city commission or committee on alcoholism, such commission or committee to be appointed by the mayor or by the council or both. The commission or committee may use any funds so allocated for the treatment, rehabilitation, and education of alcoholics in Iowa.

7. The treasurer of state shall credit to the military service tax fund described in chapter 426A, a sum of money equal to at least five percent of the gross amount of sales made by the state liquor stores in the cities of the state but not less than six million four hundred thousand dollars. Any amount thus credited shall be allocated to the various taxing districts of the state as reimbursement for losses of revenue due to exemption or remission of property taxes which would be imposed upon property upon which soldiers' exemptions or soldiers' tax credits are provided under such terms as the general assembly may provide.

Sec. 47. Section 123.53, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The treasurer of state shall transfer into a special revenue account in the general fund of the state, a sum of money at least equal to seven percent of the gross amount of sales made by the state liquor stores in the cities of the state from the beer and liquor control fund on a monthly basis but not less than nine million dollars annually, and any amounts so transferred shall be used by the department of substance abuse for substance abuse treatment and prevention programs in an amount determined by the general assembly and any amounts received in excess of the amounts appropriated to the department of substance abuse shall be considered part of the general fund balance. This section is repealed June 30, 1987.

Sec. 48. Section 123.55, subsections 8 and 9, Code 1985, are amended to read as follows:

8. The number of liquor control licenses, wine permits, and beer permits issued, by class, the number in effect on the last day included in the report, and the number which have been suspended or revoked during the period covered by the report.

9. Amount of fees paid to the department from liquor control licenses, wine permits, and beer permits, in gross, and the amount of liquor control license fees returned to local subdivisions of government as provided under this chapter.

Sec. 49. Section 123.56, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

123.56 NATIVE WINES.

1. Subject to rules of the department, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. Sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer which is no closer than five miles from an existing native winery. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit. Sales of native wines by the manufacturer of the native wines are exempt from the wine gallonage tax imposed under section 123.183.

2. A manufacturer of native wines shall not sell the wines other than as permitted in this chapter and shall not allow wine sold to be consumed upon the premises of the manufacturer. However, prior to sale native wines may be sampled on the premises where made, when no charge is made for the sampling. A person may manufacture native wine for consumption on the manufacturer's premises, when the wine or any part of it is not manufactured for sale.

3. A manufacturer of native wines may ship wine in closed containers to individual purchasers inside and outside this state. The manufacturer shall label the package containing the wine with the words "deliver to adults only".

4. Notwithstanding section 123.179, subsection 1, a class "A" wine permit for a native wine manufacturer shall be issued and renewed annually upon payment of a fee of twenty-five dollars which shall be in lieu of any other license fee required by this chapter. The class "A" permit shall only allow the native wine manufacturer to sell, keep, or offer for sale and deliver the manufacturer's native wines as provided under this section.

5. For the purposes of this section, "manufacturer" includes only those persons who process in Iowa the fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wines.

Sec. 50. Section 123.59, Code 1985, is amended to read as follows:

123.59 BOOTLEGGING.

Any person who, acting individually, or through another acting for the person, shall keep or carry on ~~his~~ the person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor, wine, or beer, with intent to sell or dispense ~~of such~~ the liquor, wine, or beer, by gift or otherwise in violation of law, or who shall, within this state, in any manner, directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of ~~such~~ alcoholic liquor, wine, or beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor, wine, or beer so ordered or shipped, or who shall in any manner procure for, sell, or give any alcoholic liquor, wine, or beer to any person under legal age, for any purpose except as authorized and permitted in this chapter, ~~shall be~~ is a bootlegger and ~~be~~ subject to the general penalties provided by this chapter.

Sec. 51. Section 123.60, Code 1985, is amended to read as follows:

## 123.60 NUISANCES.

The premises where the unlawful manufacture or sale, or keeping with intent to sell, use or give away, of alcoholic liquors, wine, or beer is carried on, and any vehicle or other means of conveyance used in transporting ~~such~~ liquor, wine, or beer in violation of law, and the furniture, fixtures, vessels and contents, kept or used in connection with such activities are nuisances and shall be abated as provided in this chapter.

Sec. 52. Section 123.71, Code 1985, is amended to read as follows:

## 123.71 CONDITIONS.

~~In no case shall a~~ A bootlegger injunction proceeding, as provided in this chapter, shall not be maintained unless it ~~be~~ is shown to the court that efforts in good faith have been made to discover the base of supplies or place where the defendant charged as a bootlegger conducts an unlawful business or receives or manufactures the alcoholic liquor, wine, or beer, ~~of~~ which the defendant is charged with bootlegging.

Sec. 53. Section 123.72, Code 1985, is amended to read as follows:

## 123.72 ORDER OF ABATEMENT.

If the existence of a nuisance is established in a civil or criminal action, an order of abatement shall be entered as a part of the judgment in the case. ~~Such~~ The order shall direct the confiscation of all alcoholic liquor, wine, or beer by the state; the removal from the premises involved of all fixtures, furniture, vessels, or movable property used in any way in conducting the unlawful business; the sale of all ~~such~~ removed property as well as any vehicle or other means of conveyance which has been abated, ~~such~~ the sale to be conducted in the manner provided for the sale of chattels under execution; and the effective closing of the premises against use for the purpose of manufacture, sale, or consumption of alcoholic liquor, wine, or beer for a period of one year, unless sooner released by the court.

Sec. 54. Section 123.81, Code 1985, is amended to read as follows:

## 123.81 FORFEITURE OF BOND.

If the owner of a property who has filed an abatement bond as provided in this chapter fails to abate the liquor, wine, or beer nuisance on the premises covered by the bond, or fails to prevent the maintenance of any liquor, wine, or beer nuisance on ~~said~~ the premises at any time within a period of one year after entry of the abatement order, the court shall, after a hearing in which such fact is established, direct an entry of ~~such~~ the violation of the terms of the owner's bond, to be made on the record and the undertaking of the owner's bond ~~thereupon~~ shall be forfeited.

Sec. 55. Section 123.84, Code 1985, is amended to read as follows:

## 123.84 JUDGMENT.

If the court after a hearing finds a liquor, wine, or beer nuisance has been maintained on the premises covered by the abatement bond and that liquor, wine, or beer has been sold or kept for sale on the premises contrary to law within one year from the date of the giving of ~~such~~ the bond, then the court shall order the forfeiture of the bond and enter judgment for the full amount of ~~such~~ the bond against the principal and sureties ~~thereof~~ on the bond, and the lien on the real estate created pursuant to section 123.79 shall be decreed foreclosed and the court shall provide for a special and general execution for the enforcement of ~~such~~ the decree and judgment.



Sec. 56. Section 123.91, Code 1985, is amended to read as follows:

**123.91 SECOND AND SUBSEQUENT CONVICTION.**

Any person who has been convicted, in a criminal action, in any court of record, of a violation of any of the following:

1. ~~Any~~ a provision of this chapter.

2. ~~Any~~, a provision of the prior laws of this state relating to intoxicating liquors, wine, or beer which ~~were~~ was in force prior to the enactment of this chapter.

3. ~~Any~~, or a provision of the laws of the United States or of any other state relating to intoxicating liquors, wine, or beer, and who is thereafter convicted of a subsequent criminal offense against any provision of this chapter is guilty of the following offenses:

a 1. For the second conviction, a serious misdemeanor.

b 2. For the third and each subsequent conviction, an aggravated misdemeanor.

Sec. 57. Section 123.92, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Every husband, wife, child, parent, guardian, employer or other person who ~~shall be~~ is injured in person or property or means of support by any intoxicated person or resulting from the intoxication of any ~~such~~ person, ~~shall have~~ has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee, who ~~shall sell~~ sells or give gives any beer, wine, or intoxicating liquor to ~~any such~~ a person while the person is intoxicated, or ~~serve any such~~ serves a person to a point where ~~such~~ the person is intoxicated, for all damages actually sustained. If the injury was caused by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.

Sec. 58. Section 123.95, unnumbered paragraph 1, Code 1985, is amended to read as follows:

It is unlawful for any person to allow the dispensing or consumption of intoxicating liquor, except ~~sacramental~~ wines and beer, in any establishment unless ~~such~~ the establishment is licensed under this chapter.

Sec. 59. Section 123.96, subsections 1 and 2, Code 1985, are amended to read as follows:

1. ~~Except as provided by section 123.56, subsection 4, there~~ There is imposed on every person licensed to sell alcoholic beverages for consumption on the premises where sold, a special tax equivalent to fifteen percent of the price established by the department on all alcoholic beverages for general sale to the public. The tax shall be paid by all licensees at the point of purchase from the state on all alcoholic beverages intended or used for resale for consumption on the premises of retail establishments. The tax is in lieu of any other sales tax applied at the state store and shall be shown as a separate item on special sales slips provided by the department for purchases by licensees.

2. ~~Except as allowed under section 123.95 and, except as allowed under section 123.56, subsection 4,~~ a licensee shall not knowingly keep on the licensed premises nor use for resale purposes any alcoholic liquor on which the special tax has not been paid to the state. The conviction of a violation of this section shall cause the license held to automatically be revoked and the license shall immediately be surrendered by the holder, and the bond of the license holder shall be forfeited to the department.

Sec. 60. Section 123.121, unnumbered paragraph 1, Code 1985, is amended to read as follows:

In any prosecution under this chapter for the unlawful sale of alcoholic liquor, wine, or beer, a sale of alcoholic liquor, wine, or beer which requires a shipment or delivery of ~~such~~ the liquor, wine, or beer, shall be deemed to be made in the county in which ~~such~~ the delivery is made by the carrier to the consignee, or the consignee's agent, or employee.

Sec. 61. Chapter 123, Code 1985, is amended by adding sections 56\* through 71\* of this Act as a new division.

Sec. 62. **NEW SECTION. 123.171 WINE PERMIT OR LICENSE REQUIRED.**

A person shall not cause the manufacture, importation, or sale of wine in this state unless a certificate or permit as provided in this division, or a liquor control license as provided in division I of this chapter, is first obtained which authorizes that manufacture, importation, or sale.

Sec. 63. **NEW SECTION. 123.172 EFFECT ON LIQUOR CONTROL LICENSEES.**

All applicable provisions of this division relating to class "B" wine permits apply to liquor control licensees in the purchasing, storage, handling, serving and sale of wine.

Sec. 64. **NEW SECTION. 123.173 WINE PERMITS - CLASSES.**

Permits exclusively for the sale or manufacture and sale of wine shall be divided into two classes, and shall be known as class "A" or "B" wine permits.

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 7. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state or for sale to the department. A class "B" wine permit allows the holder to sell wine at retail for consumption off the premises.

A class "A" wine permittee shall be required to deliver wine to a class "B" wine permittee, and a class "B" wine permittee shall be required to accept delivery of wine from a class "A" wine permittee, only at the licensed premise of the class "B" wine permittee. Except as specifically permitted by the department upon good cause shown, delivery or transfer of wine from an unlicensed premise to a licensed "B" wine permittee's premise, or from one licensed "B" wine permittee's premise to another licensed "B" wine permittee's premise, even where there is common ownership of all of the premises by one class "B" wine permittee, is prohibited.

Sec. 65. **NEW SECTION. 123.174 ISSUANCE OF WINE PERMITS.**

The director shall issue class "A" and "B" wine permits as provided in this chapter, and may suspend or revoke a wine permit for cause as provided in this chapter.

Sec. 66. **NEW SECTION. 123.175 CLASS "A" APPLICATION.**

Except as otherwise provided in this chapter, a class "A" wine permit shall be issued to a person who complies with all of the following:

1. Submits a written application for the permit and states on the application under oath:
  - a. The name and place of residence of the applicant and the length of time the applicant has lived at the place of residence.
  - b. That the applicant is a citizen of the state of Iowa, or if a corporation, that the applicant is authorized to do business in Iowa.
  - c. The place of birth of the applicant, and if the applicant is a naturalized citizen, the time and place of naturalization, or if a corporation, the state of incorporation.
  - d. The location of the premises where the applicant intends to use the permit.
  - e. The name of the owner of the premises, and if that owner is not the applicant, that the applicant is the actual lessee of the premises.
2. Establishes all of the following:
  - a. That the applicant meets the test of good moral character as provided in section 123.3, subsection 11.
  - b. That the premises where the applicant intends to use the permit conform to all applicable laws, health regulations, and fire regulations, and constitute a safe and proper place or building.
3. Submits a bond in the amount of five thousand dollars in the form prescribed and furnished by the department with good and sufficient sureties to be approved by the department conditioned upon compliance with this chapter.

\*According to enrolled Act

Sec. 67. NEW SECTION. 123.176 CLASS "B" APPLICATION.

Except as otherwise provided in this chapter, a class "B" wine permit shall be issued to a person who complies with all of the following:

1. Submits a written application for the permit and states on the application under oath:
  - a. The name and place of residence of the applicant, and the length of time the applicant has lived at the place of residence.
  - b. That the applicant is a citizen of the state of Iowa, or if a corporation, that the applicant is authorized to do business in Iowa.
  - c. The place of birth of the applicant, and if the applicant is a naturalized citizen, the time and place of naturalization, or if a corporation, the place of incorporation.
  - d. The location of the premises where the applicant intends to use the permit.
  - e. The name of the owner of the premises, and if that owner is not the applicant, that the applicant is the actual lessee of the premises.
2. Establishes all of the following:
  - a. That the applicant is a person of good moral character as provided in section 123.3, subsection 11.
  - b. That the premises where the applicant intends to use the permit conform to all applicable laws, health regulations, and fire regulations, and constitute a safe and proper place or building.
3. Submits a bond in the amount of one thousand dollars in the form prescribed and furnished by the department with good and sufficient sureties to be approved by the department conditioned upon compliance with this chapter. The bond shall be further conditioned as a part of the permit granted to the effect that the permittee and each surety shall consent to forfeiture of the principal sum of the bond in event of suspension or revocation of the permit pursuant to this chapter.

Sec. 68. NEW SECTION. 123.177 AUTHORITY UNDER CLASS "A" PERMIT.

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to the department or to persons holding a class "A" or "B" wine permit and to persons holding a class "A", "B", "C" or "D" liquor control license. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.
2. A class "A" wine permit holder may purchase and resell only those brands of wine which are manufactured, fermented, bottled, shipped, or imported by a person holding a certificate of compliance issued pursuant to section 123.175.

Sec. 69. NEW SECTION. 123.178 AUTHORITY UNDER CLASS "B" PERMIT.

1. A person holding a class "B" wine permit may sell wine at retail for consumption off the premises. Wine shall be sold for consumption off the premises in original containers only.
2. A class "B" wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.
3. A person holding a class "B" wine permit may purchase wine for resale only from the department or from a person holding a class "A" wine permit.

Sec. 70. NEW SECTION. 123.179 PERMIT FEES.

1. The annual permit fee for a class "A" wine permit is seven hundred fifty dollars.
2. The annual permit fee for a class "B" wine permit is five hundred dollars.

**Sec. 71. NEW SECTION. 123.180 VINTNER'S CERTIFICATE OF COMPLIANCE – WHOLESALE AND RETAIL RESTRICTIONS.**

1. A manufacturer, vintner, bottler, importer, or vendor of wine or an agent thereof desiring to ship, sell, or have wine brought into this state for resale by the department or for sale at wholesale by a class "A" permittee shall first make application for and shall be issued a vintner's certificate of compliance by the director for that purpose. The vintner's certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the director unless otherwise revoked for cause. Each application for a vintner's certificate of compliance or renewal of a certificate shall be accompanied by a fee of one hundred dollars payable to the department. Each holder of a vintner's certificate of compliance shall furnish the information required by the director in the form the director requires. A vintner or wine bottler whose plant is located in Iowa and who otherwise holds a class "A" wine permit to sell wine at wholesale is exempt from the fee, but not the other terms and conditions. The holder of a vintner's certificate of compliance may also hold a class "A" wine permit.

2. At the time of applying for a vintner's certificate of compliance, each applicant shall file with the department a list of all class "A" wine permittees with whom it intends to do business and shall designate the geographic area in which its products are to be distributed by the permittees. Vintner's certificate holders may appoint more than one class "A" wine permittee to service the same geographic territory. The listing of class "A" wine permittees and geographic area as filed with the department may be amended from time to time by the holder of the certificate of compliance.

3. All class "A" wine permit holders shall sell only those brands of wine which are manufactured, bottled, fermented, shipped, or imported by a person holding a current vintner's certificate of compliance. An employee or agent working for or representing the holder of a vintner's certificate of compliance within this state shall register the employee's or agent's name and address with the department. These names and addresses shall be filed with the department's copy of the certificate of compliance issued except that this provision does not require the listing of those persons who are employed on the premises of a bottling plant, or winery where wine is manufactured, fermented, or bottled in Iowa or to the listing of those persons who are thereafter engaged in the transporting of the wine.

4. It is unlawful for a holder of a vintner's certificate of compliance or the holder's agent, or any class "A" wine permittee or the permittee's agent, to discriminate between class "B" wine permittees authorized to sell wine at retail.

5. It is unlawful for a holder of a vintner's certificate of compliance or the vintner's agent who is engaged in the business of selling wine to class "A" wine permittees to discriminate between class "A" wine permittees authorized to sell wine at wholesale.

6. Regardless of any other penalties provided by this chapter, any holder of a certificate of compliance relating to wine, class "A" or retail wine permittee or retail liquor licensee, who violates any of the provisions of this section is subject to a civil fine not to exceed one thousand dollars or subject to suspension of the certificate of compliance, license, or permit for a period not to exceed thirty days or to both civil fine and suspension.

**Sec. 72. NEW SECTION. 123.181 PROHIBITED ACTS.**

1. A holder of any class "B" wine permit shall not sell wine except wine which is purchased from a person holding a class "A" wine permit and on which the tax imposed by section 123.183 has been paid or wine purchased from a manufacturer of native wines.

2. A class "A" wine permittee shall not sell wine on credit to a retail liquor licensee or wine permittee for a period exceeding thirty days from date of delivery.

3. A holder of a vintner's certificate of compliance or class "A" wine permit shall not offer to any purchaser of wine at retail any rebate or coupon as an incentive to purchase wine.

**Sec. 73. NEW SECTION. 123.182 LABELS – POINT OF ORIGIN – CONCLUSIVE EVIDENCE.**

All imported bulk wines to be bottled and distributed in the state shall have the point of origin stated on the label. The print size for the point of origin shall be at least half the print size of the brand name on the label.

The label on a bottle or other container in which wine is offered for sale in this state, which label represents the alcoholic content of the wine as being in excess of seventeen per cent by weight, is conclusive evidence of the alcoholic content of that wine.

**Sec. 74. NEW SECTION. 123.183 WINE GALLONAGE TAX.**

In addition to the annual permit fee to be paid by each class "A" wine permittee, there shall be levied and collected from each class "A" wine permittee on all wine imported into this state for sale at wholesale and sold in this state at wholesale, a tax of one dollar and fifty cents for every wine gallon and a like rate for the fractional parts of a wine gallon. A tax shall not be levied or collected on wine manufactured in this state, or on wine sold by one class "A" wine permittee to another class "A" wine permittee. All revenue derived from the wine tax shall be deposited in the liquor control fund established by section 123.53 and shall be transferred by the state comptroller to the general fund of the state. The price of wine sold or offered for sale in state liquor stores which was not purchased by the department from a class "A" wine permittee shall include a markup over the wholesale price at least equal to the tax levied under this section.

**Sec. 75. NEW SECTION. 123.184 REPORT OF GALLONAGE SALES – PENALTY.**

Each class "A" wine permit holder on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a permit, shall make a report under oath to the department upon forms to be furnished by the department showing the exact number of gallons of wine and fractional parts of gallons, sold by that permit holder during the preceding calendar month. The report also shall state whatever reasonable additional information the director requires. The permit holder at the time of filing this report shall pay to the department the amount of tax due at the rate fixed in section 123.183. A penalty of ten percent of the amount of the tax shall be assessed and collected if the report is not filed and the tax paid within the time required by this section.

**Sec. 76. NEW SECTION. 123.185 RECORDS REQUIRED.**

Each class "A" wine permittee shall keep books of account and records showing each sale of wine, which shall be at all times open to inspection by the director and agents of the department. Each class "B" wine permittee shall keep proper books of account and records showing each purchase of wine and the date and the amount of each purchase and the name of the person from whom each purchase was made, which shall be open to inspection by the director and agents of the department during normal business hours of the permittee.

**Sec. 77. NEW SECTION. 123.186 FEDERAL REGULATIONS ADOPTED AS RULES.**

The department shall adopt as rules the substance of the federal regulations 27 CFR pt. 6, 27 CFR pt. 8, 27 CFR pt. 10, and 27 CFR pt. 11 as they relate to transactions between wholesalers and retailers.

**Sec. 78. Section 321.40, Code 1985, is amended by adding the following new unnumbered paragraph:**

**NEW UNNUMBERED PARAGRAPH.** The county treasurer shall refuse to renew the registration of a vehicle registered to the applicant for renewal of registration if the applicant has failed to pay any local vehicle taxes due in that county on that vehicle or any other vehicle owned or previously owned by the applicant until such local vehicle taxes are paid.

Sec. 79. Section 321.130, Code 1985, is amended to read as follows:

**321.130 FEES IN LIEU OF TAXES.**

The registration fees imposed by this chapter upon private passenger motor vehicles or semitrailers shall be are in lieu of all state and local taxes, except local vehicle taxes, general or local, to which motor vehicles or semitrailers may be are subject, and if a motor vehicle or semitrailer shall have has been registered at any time under this chapter it shall not thereafter be subject to a personal property tax unless such the motor vehicle or semitrailer shall have has been in storage continuously as an unregistered motor vehicle or semitrailer during the preceding registration year.

Sec. 80. Chapter 422, division II, Code 1985, is amended by adding the following new section:

**NEW SECTION. 422.11A**

The taxes imposed under this division, less credits allowed under sections 422.10, 422.11 and 422.12, shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 280B and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 20, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. An individual may claim the new jobs tax credit allowed a partnership, subchapter S corporation, or estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted, whichever is the earlier. For purposes of this section, "agreement", "industry", "new job" and "project" mean the same as defined in section 280B.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 280B on the date of that agreement.

Sec. 81. Section 422.33, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 7.** The taxes imposed under this division shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 280B and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an

employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 20, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted in less than the ten years. For purposes of this section, "agreement", "industry", "new job" and "project" mean the same as defined in section 280B.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 280B on the date of that agreement.

Sec. 82. Section 422.42, subsections 3 and 12, Code 1985, are amended to read as follows:

3. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing, ~~or for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services, and includes the sale of gas, electricity, water, and communication service to retail consumers or users, but does not include agricultural breeding livestock and domesticated fowl, or commercial fertilizer, or agricultural limestone, or materials, but not tools or equipment, herbicide, pesticide, insecticide, food and medication and agricultural drain tile and installation thereof~~ which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market, ~~or and does not include electricity, or steam or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that such the property shall will, by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail, or shall will be consumed as fuel in creating heat, power, or steam for processing including grain drying, for providing heat or cooling for livestock buildings or for generating electric current, or consumed in self-propelled implements of husbandry engaged in agricultural production, or such the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides shall be deemed is a retail sale for purposes of the processing exemption.~~

~~Notwithstanding the foregoing provisions of this subsection, the sale of newsprint and ink delivered after April 1, 1970 to any person, firm or corporation to be incorporated in or used in the printing of any newspaper, free newspaper or shoppers guide for publication in this state shall be considered as a sale at retail and such person, firm or corporation shall be deemed to be the consumer of such newsprint and ink and subject to the payment of sales tax.~~

12. "Casual sales" means:

a. Sales or the rendering, furnishing or performing of a nonrecurring nature of tangible personal property or services by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section 422.43.

b. The sale of all or substantially all of the tangible personal property or services held or used by a retailer in the course of the retailer's trade or business for which the retailer is required to hold a sales tax permit when the retailer sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

Sec. 83. Section 422.43, subsections 2 and 11, Code 1985, are amended to read as follows:

2. There is imposed a tax of four percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles and bingo games as defined in chapter 99B, operated or conducted within the state of Iowa, the tax to be collected from the operator in the same manner as is provided for the collection of taxes upon the gross receipts of tickets or admission as provided in this section. The tax shall also be imposed upon the gross receipts derived from the sale of lottery tickets or shares pursuant to chapter 99E. The tax on the lottery tickets or shares shall be included in the sales price and distributed to the general fund as provided in section 99E.10.

11. The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling, excluding investment services of trust departments; bank service charges; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property; excavating and grading; farm implement repair of all kinds; flying service, except agricultural aerial application services and aerial commercial and charter transportation services; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; cable television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; lobbying service; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening. For purposes of this subsection, gross taxable services from rental includes rents, royalties, and copyright and license fees. For purposes of this subsection, "lobbying service" means the rendering, furnishing or performing, for a fee, salary or other compensation, activities which are intended or used for the purpose of encouraging the passage, defeat, or modification of legislation or for influencing the decision of the members of a legislative committee or subcommittee or the representing, for a fee, salary or other compensation, on a regular basis an organization which has as one of its purposes the encouragement of the passage, defeat or modification of legislation or the influencing of the decision of the members of a legislative committee or a subcommittee. "Lobbying service" does not include the activities of a federal, state, or local government official or employee acting within the course of the official's or employee's duties or a representative of the news media engaged only in the reporting and dissemination of news and editorials.



Sec. 84. Section 422.45, subsections 2, 12 and 20, Code 1985, are amended to read as follows:

2. The gross receipts from the sales, furnishing or service of transportation service except the rental of recreational vehicles, recreational boats, or motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less.

12. Gross receipts from the sale of all foods for human consumption which are eligible for purchase with food coupons issued by the United States department of agriculture pursuant to regulations in effect on July 1, 1974, regardless of whether the retailer from which the foods are purchased is participating in the food stamp program. However, as used in this subsection, "foods" does not include meals prepared for immediate consumption on or off the premises of the retailer, and does not include foods sold through vending machines candy, candy-coated items, and other candy products; beverages, excluding tea and coffee, and all mixes and ingredients used to produce such beverages, which do not contain a primary dairy product or dairy ingredient base or which contain less than fifteen percent natural fruit or vegetable juice; foods prepared on or off the premises of the retailer which are consumed on the premises of the retailer; foods sold by caterers and hot or cold foods prepared for immediate consumption off the premises of the retailer. "Foods prepared for immediate consumption" include any food product upon which an act of preparation, including but not limited to, cooking, mixing, sandwich making, blending, heating or pouring, has been performed by the retailer so the food product may be immediately consumed by the purchaser.

20. The gross receipts from sales or services rendered, furnished or performed by a county or city. This exemption does not apply to the tax specifically imposed under section 422.43 on the gross receipts from the sales, furnishing or service of gas, electricity, water, heat and communication service to the public by a municipal corporation in its proprietary capacity and does not apply to fees paid to cities and counties for the privilege of participating in any athletic sports.

Sec. 85. Section 422.45, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. The gross receipts from the sale or rental, on or after July 1, 1987, of farm machinery and equipment, including replacement parts which are depreciable for state and federal income tax purposes, if the following conditions are met:

a. The farm machinery and equipment shall be directly and primarily used in production of agricultural products.

b. The farm machinery and equipment shall constitute self-propelled implements or implements customarily drawn or attached to self-propelled implements or the farm machinery or equipment is a grain dryer.

Vehicles subject to registration, as defined in section 423.1, or replacement parts for such vehicles, shall not be eligible for this exemption.

NEW SUBSECTION. The gross receipts from the sale or rental, on or after July 1, 1987 or on or after July 1, 1985, in the case of an industry which has entered into an agreement under chapter 280B prior to the sale or lease, of industrial machinery, equipment and computers, including replacement parts which are depreciable for state and federal income tax purposes, if the following conditions are met:

a. The industrial machinery, equipment and computers shall be directly and primarily used in the manner described in section 428.20 in processing tangible personal property or in research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purpose of adding value to products, or in processing or storage of data or information by an insurance company, financial institution or commercial enterprise. As used in this paragraph:

(1) "Insurance company" means an insurer organized under chapters 508, 515, 518, 519, 520 or authorized to do business in Iowa as an insurer and having fifty or more persons employed in this state excluding licensed insurance agents.

(3) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses and manufacturers but excludes professions and occupations and nonprofit organizations.

b. The industrial machinery, equipment and computers must be real property within the scope of section 427A.1, subsection 1, paragraphs "e" or "j", and must be subject to taxation as real property.

However, the provisions of chapters 404 and 427B which result in the exemption from taxation of property for property tax purposes do not preclude the property from receiving this exemption if the property otherwise qualifies.

The gross receipts from the sale or rental of hand tools are not exempt. The gross receipts from the sale or rental of pollution control equipment qualifying under paragraph "a" shall be exempt.

The gross receipts from the sale or rental of industrial machinery, equipment, and computers, including pollution control equipment, within the scope of section 427A.1, subsection 1, paragraphs "h" and "i", shall not be exempt.

Sec. 86. Section 422.45, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. The gross receipts from the rendering, furnishing or performing of the following service: design and installation of new industrial machinery or equipment, including electrical and electronic installation.

NEW SUBSECTION. The gross receipts from the sale of wood chips or sawdust used in the production of agricultural livestock or fowl.

NEW SUBSECTION. The gross receipts from the rendering, furnishing or performing of additional services taxed by this Act pursuant to a written services contract in effect on April 1, 1985. This exemption is repealed June 30, 1986.

Sec. 87. Chapter 422, division IV, Code 1985, is amended by adding the following new sections:

NEW SECTION. 422.47A

1. Sales, services, and use taxes paid on the purchase or rental of industrial machinery, equipment and computers, including replacement parts which are depreciable for state and federal income tax purposes, shall be refunded to the purchaser or renter provided all of the following conditions are met:

a. The purchase or rental was made during the period beginning July 1, 1985 and ending June 30, 1987.

b. The tax was paid to the retailer or timely paid to the department by the user if section 423.14, is applicable.

c. The claim is filed on forms provided by the department and is filed during the three months following the fiscal year in which the purchase or rental was made.

d. The industrial machinery and equipment and computers shall be directly and primarily used in the manner described in section 428.20 in processing tangible personal property or in research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purpose of adding value to products, or in processing or storage of data or information by an insurance company, financial institution or commercial enterprise. As used in this paragraph:

(1) "Insurance company" means an insurer organized under chapters 508, 515, 518, 519, 520 or authorized to do business in Iowa as an insurer and having fifty or more persons employed in this state excluding licensed insurance agents.

(2) "Financial institutions" means as defined in section 527.2, subsection 4.

(3) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses and manufacturers but excludes professions and occupations and nonprofit organizations.

e. The industrial machinery, equipment or any computer must be real property within the scope of section 427A.1, subsection one, paragraph "e" or "j", and must be subject to taxation as real property.

However, the provisions of chapters 404 and 427B which result in the exemption from taxation of property for property tax purposes shall not preclude the property from receiving this refund if the property otherwise qualifies.

Any tax paid on hand tools shall not be eligible for a refund. Any tax paid on pollution control equipment qualifying under paragraphs "a" through "d" of this subsection shall be eligible for a refund. Any tax paid on industrial machinery, equipment or computers, including pollution control equipment, within the scope of section 427A.1, subsection 1, paragraphs "h" and "i", shall not be eligible for refund.

2. A claim for refund timely filed under subsection 1 shall be paid by the department within ninety days after receipt of the claim. A claimant who makes an erroneous application for refund shall be liable for payment of any refund paid plus interest at the rate in effect under section 421.7. In addition, a claimant who willfully makes a false application for refund is guilty of a simple misdemeanor and is liable for a penalty equal to fifty percent of the refund claimed. Refunds, penalties, and interest due under this section may be enforced and collected in the same manner as the tax imposed by this division.

**NEW SECTION. 422.47B**

1. Sales, services, and use taxes paid on the purchase or rental of farm machinery and equipment, including replacement parts which are depreciable for state and federal income tax purposes, shall be refunded to the purchaser or renter provided all of the following conditions are met:

a. The purchase or rental was made during the period beginning July 1, 1985 and ending June 30, 1987.

b. The tax was paid to the retailer or timely paid to the department by the user if section 423.14, is applicable.

c. The claim is filed on forms provided by the department and is filed during the three months following the fiscal year in which the purchase or rental was made.

d. The farm machinery and equipment shall be directly and primarily used in production of agricultural products.

e. The farm machinery and equipment shall constitute self-propelled implements or implements customarily drawn or attached to self-propelled implements or the farm machinery or equipment is a grain dryer.

Vehicles subject to registration, as defined in section 423.1, or replacement parts for such vehicles, shall not be eligible for the refund for farm machinery and equipment.

2. A claim for refund timely filed under subsection 1 shall be paid by the department within ninety days after receipt of the claim. A claimant who makes an erroneous application for refund shall be liable for payment of any refund paid plus interest at the rate in effect under section 421.7. In addition, a claimant who willfully makes a false application for refund is guilty of a simple misdemeanor and is liable for a penalty equal to fifty percent of the refund claimed. Refunds, penalties, and interest due under this section may be enforced and collected in the same manner as the tax imposed by this division.

Sec. 88. Section 422.69, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3. Of the taxes, interests and penalties collected under division IV which are credited to the general fund, an amount equal to the amount estimated by the department, adjusted as the department deems necessary, shall be set aside into a separate "machinery and equipment refund account" to be used to pay the refunds entitled to under sections 422.47A and 422.47B. The moneys in this separate account shall not be considered part of the state general fund for purposes of the Iowa economic emergency fund under section 8.55. This subsection is repealed April 1, 1988.

Sec. 89. **NEW SECTION.** 422B.1 AUTHORIZATION — ELECTION — IMPOSITION AND REPEAL.

1. A city or a county may impose by ordinance of the city council or the board of supervisors local option taxes authorized by sections 422B.1 through 422B.11, subject to this section.

2. A local option tax shall be imposed only after an election at which a majority of those voting on the question favors imposition and shall then be imposed until repealed as provided in subsection 7, paragraph "a". If the tax is a local earnings tax imposed by a city, it shall only apply within the corporate boundaries of that city and if imposed by a county, it shall only apply to unincorporated areas of that county. If the tax is a local vehicle tax imposed by a county, it shall apply to all incorporated and unincorporated areas of the county. If the tax is a local sales and services tax imposed by a county, it shall only apply to those incorporated areas and the unincorporated area of that county in which a majority of those voting in the area on the tax favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

3. Upon its own motion or upon receipt of a petition signed by eligible electors of the city equal in number to five percent of the persons of the city who voted in the last preceding state general election requesting imposition of a local earnings tax, the city council shall direct within thirty days of its motion or receipt of the petition the county commissioner of elections to submit the question of the imposition to the qualified electors of the city.

4. Upon its own motion or upon receipt of a petition signed by eligible electors of the unincorporated area of the county equal in number to five percent of the persons of the unincorporated area of the county who voted at the last preceding state general election requesting imposition of a local earnings tax, the county board of supervisors shall direct within thirty days of its motion or receipt of the petition the county commissioner of elections to submit the question of the imposition to the qualified electors of the unincorporated area of the county.

5. a. A county board of supervisors shall direct within thirty days the county commissioner of elections to submit the question of imposition of a local vehicle tax or a local sales and services tax to the qualified electors of the incorporated and unincorporated areas of the county upon receipt of a petition, requesting imposition of a local vehicle tax or a local sales and services tax, signed by eligible electors of the whole county equal in number to five percent of the persons in the whole county who voted at the last preceding state general election. In the case of a local vehicle tax, the petition requesting imposition shall specify the rate of tax and the classes, if any, that are to be exempt. If more than one valid petition is received, the earliest received petition shall be used.

b. The question of the imposition of a local sales and services tax shall be submitted to the qualified electors of the incorporated and unincorporated areas of the county upon receipt by the county commissioner of elections of the motion or motions, requesting such submission,

adopted by the governing body or bodies of the city or cities located within the county or of the county, for the unincorporated areas of the county, representing at least one half of the population of the county. Upon adoption of such motion, the governing body of the city or county, for the unincorporated areas, shall submit the motion to the county commissioner of elections and in the case of the governing body of the city shall notify the board of supervisors of the adoption of the motion. The county commissioner of elections shall keep a file on all the motions received and, upon reaching the population requirements, shall publish notice of the ballot proposition concerning the imposition of the local sales and services tax. A motion ceases to be valid at the time of the holding of the regular election for the election of members of the governing body which adopted the motion. The county commissioner of elections shall eliminate from the file any motion that ceases to be valid. The manner provided under this paragraph for the submission of the question of imposition of a local sales and services tax is an alternative to the manner provided in paragraph "a".

6. The county commissioner of elections shall submit the question of imposition of a local option tax at a state general election or at a special election held at the time of a city regular election in the case of a tax imposed by a county or at a state general election or city regular election in the case of a tax imposed by a city which may not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the type and rate of tax and in the case of a vehicle tax the classes that will be exempt and in the case of a local sales and services tax the date it will be imposed. The ballot proposition shall also specify the approximate amount of local option tax revenues that will be used for property tax relief and shall contain a statement as to the specific purpose or purposes for which the revenues shall otherwise be expended. The rate of a local earnings tax shall be in increments of one percent but not in excess of four percent as set by the governing body of the city or county seeking to impose the tax. The rate of the vehicle tax shall be in increments of one dollar per vehicle as set by the petition seeking to impose the tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

7. a. If a majority of those voting on the question of imposition of a local option tax favor imposition of a local option tax, the governing body of that city or that county, as applicable, shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition. The local option tax may be repealed or the rate increased or decreased only after an election at which a majority of those voting on the question of repeal or rate change favor the repeal or rate change. The election at which the question of repeal or rate change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 3, 4, 5, and 6 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition shall be voted on only by the qualified electors of the areas of the county where the tax has been imposed or has not been imposed, as appropriate.

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of a local option tax, the governing body shall give written notice to the director of revenue or, in the case of a local vehicle tax, to the director of the department of transportation, of the result of the election.

8. More than one of the authorized local option taxes may be submitted at a single election and the different taxes shall be separately implemented as provided in this section.

9. Local option taxes authorized to be imposed as provided in sections 422B.1 through 422B.11 are a local earnings tax, a local sales and services tax, and a local vehicle tax. The rate of the taxes shall be up to four percent in increments of one percent for the earnings tax, and in increments of one dollar per vehicle for a vehicle tax all as set by the governing body of the city or county seeking to impose the earnings tax or as set on the petition seeking to impose the vehicle tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body.

**Sec. 90. NEW SECTION. 422B.2 LOCAL VEHICLE TAX.**

An annual local vehicle tax at the rate per vehicle specified on the ballot proposition may be imposed by a county on every vehicle which is required to be registered by the state and is registered with the county treasurer to a person residing within the county where the tax is imposed at the time of the renewal of the registration of the vehicle. The local vehicle tax shall be imposed only on the renewals of registrations and shall be payable during the registration renewal periods provided under section 321.40.

The county imposing the tax shall provide for the exemption of each class, if any, of vehicles for which an exemption was listed on the ballot proposition.

For the purpose of the tax authorized by this section, "person" and "registration year" mean the same as defined in section 321.1, "vehicle" means motor vehicle as defined in section 321.1 which is subject to registration under section 321.18, and which is registered with the county treasurer.

**Sec. 91. NEW SECTION. 422B.3 ADMINISTRATION.**

A local vehicle tax or change in the rate shall be imposed January 1 immediately following a favorable election for registration years beginning on or after that date and the repeal of the tax shall be as of December 31 following a favorable election for registration years beginning after that date.

Local officials shall confer with the director of the department of transportation for assistance in drafting the ordinance imposing a local vehicle tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage. The director shall inform the appropriate county treasurers and provide assistance to them for the collection of all local vehicle taxes and any penalties, crediting local vehicle tax receipts excluding penalties to a "local vehicle tax fund" established in the office of the county treasurer. From the local vehicle tax fund, the treasurer shall remit monthly, by direct deposit in the same manner as provided in section 384.11, to each city in the county the amount collected from residents of the city during the preceding calendar month and to the county the amount collected from the residents of the unincorporated area during the preceding calendar month. Moneys received by a city or county from this fund shall be credited to the general fund of the city or county to be used solely for public transit or shall be credited to the street construction fund of that city or the secondary road fund of that county to be used for the purposes specified in section 312.6. Any penalties collected shall be credited to the county general fund to be used to defray the cost to the county of administering the local vehicle tax.

Sec. 92. NEW SECTION. 422B.4 PAYMENT.

Taxpayers shall pay a local vehicle tax to the county treasurer at the time of application for the renewal of the registration of the vehicle under chapter 321 for the registration year. The county treasurer shall require a person applying for the renewal of the registration of a vehicle to state the person's residence and shall not renew a registration certificate of a vehicle on which a local vehicle tax is due until the local vehicle tax is paid.

Payment of a local vehicle tax shall be evidenced by a notation on the state registration certificate. The director of the department of transportation shall prescribe by rule the type of notation. A local vehicle tax shall not be refunded even when state registration fees are refunded.

Penalties for late payment which are comparable to the penalties for late payment of state registration fees shall be imposed by the ordinance imposing a local vehicle tax. Willful violation of a local vehicle tax ordinance is a simple misdemeanor.

Sec. 93. NEW SECTION. 422B.5 LOCAL EARNINGS TAX.

1. A city or county may impose an annual earnings tax at the rate on the ballot proposition on the adjusted gross income from wages, salaries, commissions, and other compensation specified in paragraph "a" received or earned by resident and nonresident individuals, except individuals who are state or county employees:

a. Adjusted gross income from wages, salaries, commissions, and other compensation of resident and nonresident individuals, except individuals who are state or county employees, derived from work performed or services rendered within the city or unincorporated area of the county imposing the tax.

2. For purposes of the local earnings tax "resident individual" means an individual taxpayer whose principal place of residence at the end of the taxpayer's tax year is located in the city or unincorporated area of the county where the tax is imposed, "nonresident individual" means an individual who is not a resident individual and "adjusted gross income from wages, salaries, commissions, and other compensation" means the gross income from such compensation less those deductions allowable for state and federal tax purposes which are attributable to the earning of such compensation. The department of revenue shall adopt rules for determining the adjusted gross income of such compensation. If the compensation received for work performed or services rendered is for work performed or services rendered both within and without the area where the tax is imposed, the amount of compensation of an individual derived from work performed or services rendered that is subject to the local earnings tax shall be reasonably apportioned to the city or unincorporated area of the county, as applicable, by means of rules adopted by the department of revenue. The department shall also provide rules for allocation of other types of income on which the earnings tax is imposed.

3. Returns for the local earnings tax shall be in the form as the director of revenue may prescribe, and shall be filed with the department on or before the last day of the fourth month after the expiration of the tax year. All local earnings tax returns shall cover a calendar year. Each taxpayer required to file a return shall show on the return the city of residence on the last day of the tax year, if applicable, and shall show the county of residence on the last day of the tax year.

4. a. Every withholding agent and every employer as defined in chapter 422 and further defined in the Internal Revenue Code of 1954 as defined in chapter 422, with respect to income tax collected at source, making payment of wages to either a resident employee or employees, or a nonresident employee or employees, working in the city or unincorporated area of the county, shall deduct and withhold from the wages an amount which will approximate the

employees' annual tax liability on a calendar year basis, calculated on tables provided by the department of revenue.

b. A withholding agent required to deduct and withhold tax under paragraph "a" shall deposit for each calendar quarterly period, on or before the last day of the month following the close of the quarterly period, on forms prescribed by the director, the tax required to be withheld under paragraph "a".

5. Every resident and nonresident of the city or county imposing a local earnings tax shall make and sign a return if the individual has income of five hundred dollars or more which is subject to the earnings tax.

Sec. 94. NEW SECTION. 422B.6 ADMINISTRATION.

A local earnings tax or change in the rate shall be imposed January 1 following the favorable election for tax years beginning on or after January 1 and repeal of the tax shall be as of December 31 following the favorable election for tax years beginning after December 31.

The director of revenue shall administer the provisions of a local earnings tax as nearly as possible in conjunction with the administration of state income tax laws. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting local earnings tax.

An ordinance imposing a local earnings tax shall adopt by reference the applicable provisions of the appropriate sections of chapter 422, division II. All powers and requirements of the director in administering the state income tax law apply to the administration of a local earnings tax, including but not limited to, the provisions of sections 422.4, 422.16, 422.20, 422.21, 422.22 to 422.31, 422.68, and 422.72 to 422.75. Local officials shall confer with the director of revenue and obtain the director's assistance in drafting the ordinance imposing a local earnings tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

The director, in consultation with local officials, shall collect and account for a local earnings tax and any interest and penalties. The director shall credit local earnings tax receipts and any interest and penalties collected from returns filed on or before November 1 of the calendar year following the tax year for which the local earnings tax is imposed to a "local earnings tax fund" established in the office of the treasurer of state. All local earnings tax receipts and any interest and penalties received or refunded from returns filed after November 1 of the calendar year following the tax year for which the local earnings tax is imposed shall be deposited in or withdrawn from the state general fund and shall be considered part of the cost of administering the local earnings tax.

Sec. 95. NEW SECTION. 422B.7 PAYMENT TO LOCAL GOVERNMENT — USE OF RECEIPTS.

1. On or before January 15, the director of revenue shall make an accounting of the local earnings tax receipts and any interest and penalties collected from returns filed on or before November 1 of the preceding year and shall certify to the treasurer of state this amount collected. The treasurer of state shall remit within fifteen days of the certification by the director of revenue to each city and county which has imposed a local earnings tax the amount in the local earnings tax fund collected as a result of its tax.

2. Local earnings tax moneys received by a city or county may be expended for any lawful purpose of the city or county which imposed the tax.



Sec. 96. NEW SECTION. 422B.8 LOCAL SALES AND SERVICES TAX.

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax and may not be imposed on the sale of any property or on any service not taxed by the state. However, notwithstanding that the gross receipts from the sale or rental of the tangible personal property described in section 85 of this Act are taxable during the period beginning July 1, 1985 and ending June 30, 1987, a local sales and services tax shall not be imposed on the sale or rental of such property. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

The amount of the sale, for purposes of determining the amount of the local sales and services tax, does not include the amount of any state gross receipts taxes.

A tax permit other than the state tax permit required under section 422.53 shall not be required by local authorities.

Sec. 97. NEW SECTION. 422B.9 ADMINISTRATION.

A local sales and services tax shall be imposed either January 1, April 1, July 1 or October 1 following the notification of the director of revenue.

A local sales and services tax shall be repealed only on March 31, June 30, September 30, or December 31. At least forty days before the imposition or repeal of the tax, a county shall provide notice of the action by certified mail to the director of revenue.

The director of revenue shall administer a local sales and services tax as nearly as possible in conjunction with the administration of state gross receipts tax laws. The director shall provide appropriate forms or provide on the regular state tax forms for reporting local sales and services tax liability.

The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of chapter 422, division IV. All powers and requirements of the director to administer the state gross receipts tax law are applicable to the administration of a local sales and services tax law, including but not limited to, the provisions of sections 422.25, subsection 4, 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and 422.70 to 422.75. Local officials shall confer with the director of revenue for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

The director, in consultation with local officials, shall collect and account for a local sales and services tax. The director shall certify each quarter the amount of local sales and services tax receipts and any interest and penalties to be credited to the "local sales and services tax fund" established in the office of the treasurer of state.

All local tax moneys and interest and penalties received or refunded one hundred eighty days or more after the date on which the county repeals its local sales and services tax shall be deposited in or withdrawn from the state general fund.

Sec. 98. NEW SECTION. 422B.10 PAYMENT TO LOCAL GOVERNMENTS.

1. The treasurer of state shall credit the local sales and services tax receipts and interest and penalties from a county to the county's account in the local sales and services tax fund.

2. The treasurer of state, pursuant to rules of the director of revenue, shall remit at least quarterly to the board of supervisors, if the tax was imposed in the unincorporated areas, and each city where the tax was imposed its share of the county's account in the local sales and services tax fund as computed under subsections 3 and 4.

3. Seventy-five percent of each county's account shall be remitted on the basis of the county's population residing in the unincorporated area where the tax was imposed and those incorporated areas where the tax was imposed as follows:

a. To the board of supervisors a pro rata share based upon the percentage of the above population of the county residing in the unincorporated area of the county where the tax was imposed according to the most recent certified federal census.

b. To each city in the county where the tax was imposed a pro rata share based upon the percentage of the city's population residing in the county to the above population of the county according to the most recent certified federal census.

4. Twenty-five percent of each county's account shall be remitted based on the sum of property tax dollars levied by the board of supervisors if the tax was imposed in the unincorporated areas and each city in the county where the tax was imposed during the three-year period beginning July 1, 1982 and ending June 30, 1985 as follows:

a. To the board of supervisors a pro rata share based upon the percentage of the total property tax dollars levied by the board of supervisors during the above three-year period.

b. To each city council where the tax was imposed a pro rata share based upon the percentage of property tax dollars levied by the city during the above three-year period of the above total property tax dollars levied by the board of supervisors and each city where the tax was imposed during the above three-year period.

5. Local sales and services tax moneys received by a city or county may be expended for any lawful purpose of the city or county.

Sec. 99. NEW SECTION. 422B.11 ADDITIONAL REAL PROPERTY TAX.

An additional real property tax may be imposed by a city or county on all taxable property located within the incorporated area of the city or the unincorporated area of the county, as applicable. The additional real property tax shall be imposed for the tax year in which the favorable election was held to be paid during the fiscal year beginning July 1 following the favorable election and the tax shall be continued for each subsequent tax year until repealed. The rate of the tax shall be the rate specified on the ballot proposition.

Sec. 100. Section 7B.4, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The state shall refrain for a job of comparable value, without effecting further layoffs, any state employee displaced as a result of either the private wholesale or retail sale of wine.

Sec. 101. Section 423.1, subsection 1, unnumbered paragraph 2, Code 1985, is amended by striking the paragraph.

Sec. 102. Section 427.1, subsection 32, unnumbered paragraphs 1 and 2, Code 1985, are amended to read as follows:

Pollution-control property as defined in this subsection shall be exempt from taxation for the periods and to the extent provided in this subsection, upon compliance with the provisions of this subsection.

This exemption shall apply to new installations of pollution-control property for a period of ten years beginning on January 1 after the construction or installation of the property is completed. This exemption shall apply for a period of ten years beginning on January 1, 1975, to existing pollution-control property if its construction or installation was completed after September 23, 1970. This exemption shall apply with respect to each of the ten annual assessments within the ten-year exemption period and the property taxes payable on the basis of each of such ten annual assessments. This exemption for existing pollution-control property shall begin with respect to the assessment as of January 1, 1975, and the taxes payable on the basis of this assessment during the fiscal year beginning July 1, 1976.

Sec. 103. Section 427A.1, subsection 1, paragraph j, subparagraph (1), Code 1985, is amended to read as follows:

(1) COMPUTERS. As used in this paragraph, "computer" means stored program processing equipment and all devices fastened to the computer by means of signal cables or communication media that serve the function of signal cables, but does not include point of sales equipment.

Sec. 104. Section 427A.9, unnumbered paragraphs 2 and 3, Code 1985, are amended to read as follows:

The amount of the additional personal property tax credit shall be a fixed amount for each tax year. The amount of the additional personal property tax credit shall be increased for the extended tax year beginning January 1, 1974, and ending June 30, 1975, and shall be increased for each tax year immediately following a tax year in which the growth of state general fund revenues, adjusted for changes in rate or basis, exceeds five and one-half percent, except that the amount of the additional personal property tax credit for taxes payable in each year of the fiscal period beginning July 1, 1977 and ending June 30, 1979 shall not exceed the amount of the additional personal property tax credit allowed for taxes payable in the fiscal year beginning July 1, 1976 and ending June 30, 1977, ~~and~~ the amount of the additional personal property tax credit for taxes payable in the fiscal year beginning July 1, 1980 and ending June 30, 1981 shall not exceed the amount of the additional personal property tax credit allowed for taxes payable in the fiscal year beginning July 1, 1979 and ending June 30, 1980, and the amount of the additional personal property tax credit for taxes payable in the fiscal year beginning July 1, 1986 and ending June 30, 1987 shall not exceed the amount of the additional personal property tax credit allowed for taxes payable in the fiscal year beginning July 1, 1985 and ending June 30, 1986. An increase in the additional personal property tax credit, once granted, shall continue for each succeeding tax year. For the purposes of this chapter the state comptroller may estimate the state percent of growth if necessary to avoid delay in the collection of taxes. ~~After nine such increases have been made, all~~ All taxes on personal property shall be repealed as provided in the following section. The director of revenue and the state comptroller, jointly, shall determine the amount of the credit for each such tax year. Such amount shall be the maximum amount, rounded to the nearest ten dollars, which will permit complete funding of the replacement obligation under this division, including the replacement obligation for the tax credit granted pursuant to sections 427A.1 to 427A.5, out of the appropriation provided in this chapter.

Notwithstanding the provisions of this section which require an increase in general fund revenues in excess of five and one-half percent, adjusted for changes in rate or basis, to increase the personal property tax credit, the amount of the personal property tax credit, to be allowed for taxes payable in the fiscal year beginning July 1, 1982 and ending June 30, 1983 and in the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be increased as provided in this section.

Sec. 105. Section 427A.10, Code 1985, is amended to read as follows:

#### 427A.10 PHASE OUT OF TAX.

Effective on July 1 ~~after the tax year in which the ninth increase in the additional personal property tax credit becomes effective, 1987,~~ all taxes on personal property as defined in section 427A.1 are repealed. For assessment years beginning on or after January 1, 1986 personal property shall not thereafter be listed or assessed. This section shall prevail over all inconsistent statutes.

Sec. 106. Section 427A.12, subsection 6, Code 1985, is amended to read as follows:

6. For each state fiscal year beginning on or after the year in which the ninth increase in the additional personal property tax credit under this division becomes effective July 1, 1987, each taxing district shall be reimbursed from the personal property tax replacement fund in an amount equal to its personal property tax replacement base.

Sec. 107. Section 427A.13, Code 1985, is amended to read as follows:  
427A.13 APPROPRIATION.

There is hereby appropriated from the general fund of the state of Iowa to the personal property tax replacement fund the following sums, or so much thereof as may be necessary, to carry out the provisions of this chapter as amended by this division. For the fiscal year beginning July 1, 1973, and ending June 30, 1974, there is appropriated the sum of thirty-one million nine hundred thousand dollars. For the fiscal year beginning July 1, 1974, and ending June 30, 1975, and each succeeding fiscal year, there is appropriated the sum of thirty-five million seven hundred thousand dollars. For each year of the fiscal period beginning July 1, 1977 and ending June 30, 1979 the total appropriation shall be thirty-eight million six hundred thousand dollars. For the fiscal year beginning July 1, 1983 and ending June 30, 1984, the total appropriation shall be forty-six million two hundred thousand dollars. For the fiscal year beginning July 1, 1984 and ending June 30, 1985, the total appropriation shall be twenty-three million one hundred thousand dollars. For the fiscal year beginning July 1, 1985 and ending June 30, 1986, and each succeeding fiscal year, the total appropriation shall be an amount equal to the amount paid on May 15 of the preceding fiscal year plus one-half of the amount needed to fund the additional personal property tax credit payable in that fiscal year. In each fiscal year for which an increase in the additional personal property tax credit becomes effective as provided in this division, the appropriation under this section shall be increased by three million eight hundred thousand dollars, and ~~such this~~ increased appropriation shall continue for each succeeding fiscal year. For the fiscal year ~~for which the ninth increase in the additional personal property tax credit becomes effective as provided in this division beginning July 1, 1987~~ the total appropriation shall be fifty-nine million dollars. For the fiscal year beginning July 1, 1988, and for each succeeding fiscal year, the total appropriation shall be sixty-eight million dollars per year.

Sec. 108. Section 427B.10, unnumbered paragraph 1, Code 1985, is amended to read as follows:

For property defined in section 427A.1, subsection 1, paragraphs "e" and "j" acquired or initially leased after December 31, 1981 and on or before January 1, 1985, the taxpayer's valuation shall be limited to thirty percent of the net acquisition cost of the property. For purposes of this section, "net acquisition cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

Sec. 109. Chapter 427B, Code 1985, is amended by adding as a new division the following new section:

NEW SECTION. PROPERTY SUBJECT TO SPECIAL VALUATION.

For property defined in section 427A.1, subsection 1, paragraphs "e" and "j" acquired or initially leased after January 1, 1985 the taxpayer's valuation shall be limited to thirty percent of the net acquisition cost of the property. For purposes of this section, "net acquisition cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

For purposes of this section:

1. Property assessed by the department of revenue pursuant to sections 428.24 to 428.29, or chapters 433, 434 and 436 to 438 shall not receive the benefits of this section.
2. Property acquired on or before January 1, 1985 which was owned or used on or before January 1, 1985 by a related person shall not receive the benefits of this section.

3. Property acquired after January 1, 1985 which was owned and used by a related person shall not receive any additional benefits under this section.

4. Property which was owned or used on or before January 1, 1985 and subsequently acquired by an exchange of like property shall not receive the benefits of this section.

5. Property which was acquired after January 1, 1985 and subsequently exchanged for like property shall not receive any additional benefits under this section.

6. Property acquired on or before January 1, 1985 which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive the benefits of this section.

7. Property acquired after January 1, 1985 which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive any additional benefits under this section.

For purposes of this section, "related person" means a person who owns or controls the taxpayer's business and another business entity from which property is acquired or leased or to which property is sold or leased. Business entities are owned or controlled by the same person if the same person directly or indirectly owns or controls fifty percent or more of the assets or any class of stock or who directly or indirectly has an interest of fifty percent or more in the ownership or profits.

Property assessed pursuant to this section shall not be eligible to receive a partial exemption under sections 427B.1 to 427B.6.

Sec. 110. Section 442.7, subsection 1, paragraph a, Code 1985, is amended by adding the following unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, for computing the state percent of growth to be used for the school year beginning July 1, 1987, the revenues received as a result of the increase in taxes in this Act or as a result of the inclusion of additional items subject to tax in this Act shall not be considered revenues received for the state general fund for purposes of determining the percentages under subparagraph (1) or (2).

Sec. 111. Section 455C.1, subsection 1, Code 1985, is amended to read as follows:

1. "Beverage" means wine as defined in section 123.3, subsection 7, alcoholic liquor as defined in section 123.3, subsection 8, beer as defined in section 123.3, subsection 9, mineral water, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

Sec. 112. Section 455C.4, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A dealer, other than a state liquor store, or a distributor may refuse to accept and to pay the refund value of an empty wine container which is marked to indicate that it was sold by a state liquor store. A state liquor store may refuse to accept and to pay the refund value of an empty wine container which is not marked to indicate that it was sold by a state liquor store.

Sec. 113. Section 455C.5, subsection 1, Code 1985, is amended to read as follows:

1. Each beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, label or other method securely affixed to the container, the refund value of the container. The department shall specify, by rule, the minimum size of the refund value indication on the beverage containers. Each beverage container containing wine which is sold or offered for sale in a state liquor store shall also be marked by embossing or by stamp, label, or other method securely affixed to the container to indicate that it was sold in a state liquor store.

Sec. 114. Section 99E.10, subsection 1, unnumbered paragraph 1, 1985 Acts, House File 225, section 110, if division I of House File 225 becomes law is amended to read as follows:

1. Upon receipt of any revenue, the commissioner shall deposit the moneys in the lottery fund created pursuant to section 99E.20. As nearly as is practicable, ~~forty-five~~ fifty percent of the projected annual revenue, after deduction of the amount of the sales tax, computed on a year-round average basis for each type of lottery game accruing from the sale of tickets or shares is appropriated for payment of prizes to the holders of winning tickets. After the payment of prizes, all of the following shall be deducted from lottery revenue prior to disbursement:

Sec. 115. Section 99E.10, subsection 1, 1985 Acts, House File 225, section 110, if division I of House File 225 becomes law is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. An amount equal to four percent of the gross sales price of each ticket or share sold shall be deducted as the sales tax on the sale of that ticket or share, remitted to the treasurer of state and deposited into the state general fund.

Sec. 116. Section 422.45, subsection 22, 1985 Acts, House File 225, section 122, if division I of House File 225 becomes law is amended by striking the subsection.

Sec. 117. NEW SECTION. 99A.10 MANUFACTURE OF ELECTRONIC GAMBLING DEVICES PERMITTED.

A person may manufacture electronic or computerized gambling devices. This chapter does not prohibit such manufacturing activities.

Sec. 118. Section 725.9, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This chapter does not prohibit the manufacture of electronic or computerized gambling devices.

Sec. 119.

1. All persons required to be licensed under section 98.13 as distributors having in their possession prior to delivery for resale as of the close of business on September 30, 1985 cigarettes or little cigars upon which the tax under section 98.6 or 98.43 has been paid, unused cigarette tax stamps which have been paid for under section 98.8, or unused metered imprints which have been paid for under section 98.12 shall be subject to an inventory tax on such items as provided in this section.

2. Persons subject to the inventory tax imposed under this section shall take an inventory as of the close of business on September 30, 1985 of those items subject to the inventory tax for the purpose of determining the tax due. These persons shall report the tax on forms provided by the department of revenue and remit the tax due with the forms by October 31, 1985. The department of revenue shall adopt rules as are necessary to carry out this section.

3. The rate of the inventory tax on each item subject to the tax as specified in subsection 1 is equal to the difference between the amount paid on each item under section 98.6, 98.8, 98.12, or 98.43 prior to October 1, 1985 and the amount that is to be paid on each similar item under section 98.6, 98.8, 98.12, or 98.43 on or after October 1, 1985 except that in computing the rate of the inventory tax any discount allowed or allowable under section 98.8 shall not be considered.

Sec. 120. Notwithstanding any provision of section 98.8 or of other provisions of chapter 98, during the period beginning October 1, 1985 and ending November 15, 1985, a holder of a state distributor's permit issued under chapter 98 may at the permit holder's option purchase cigarette tax stamps on credit for a period of forty-five days following such purchase. At the end of the forty-five day period the permit holder shall remit the amount due. As a condition for this credit-purchase, the purchase must be made from the department of revenue office in Des Moines, and the permit holder shall provide, at the time of such purchase, a bond to the department of revenue to insure the payment of the face value of the tax stamps at the end of the forty-five day period. A permit holder is entitled to make only one credit purchase under this section.

**CHAPTER 33****ECONOMIC DEVELOPMENT, LOTTERY AND TRADE CENTER***H.F. 225*

**AN ACT** relating to economic development by creating a five-year state lottery, providing penalties, and providing revenues from the state lottery to be used for certain economic development programs and activities; providing for set-asides in state procurement contracts for small minority businesses; providing for the reorganization of state economic development programs and activities with the Iowa development commission acting as the interim coordinating agency for economic development until the new department of economic development is created; creating an Iowa partnership for economic progress advisory committee to advise the Iowa development commission and the general assembly on economic development matters and the uses to be made of the revenues from the state lottery; creating an Iowa world trade center selection advisory committee to accept proposals from private groups on the construction of the Iowa world trade center, to select from those proposals one proposal under which the state will purchase space in the Iowa world trade center, and to become part of the nonprofit corporation formed to operate, manage and lease this state-owned space; establishing a primary research and marketing center for business and international trade and satellite centers; creating a forgivable loan program for loans to students who remain residents of Iowa and are employed as a teacher under certain circumstances; making appropriations for economic development programs and activities; and providing an effective date.

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

**DIVISION I**

Section 101. **NEW SECTION. 99E.1 TITLE.**

This chapter may be cited as the "Iowa Lottery Act".

Sec. 102. **NEW SECTION. 99E.2 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the commissioner of the lottery.
2. "Director" means the director of each of the three divisions of the lottery agency operating under the commissioner.
3. "Lottery" means the lottery created and operated under this chapter.
4. "Board" means the Iowa lottery board.
5. "Licensee" means the person issued a license by the commissioner to sell lottery tickets or shares. The licensee is responsible for the licensee's employees' conduct which is within the scope of this chapter.
6. "Ticket" means any tangible evidence issued by the Iowa lottery agency to prove participation in a game conducted by the state lottery agency.
7. "Share" means any intangible manifestation authorized by the Iowa lottery agency to prove participation in a game conducted by the state lottery agency.

8. "On-line lotto" means a lottery game hooked up to a central computer via telecommunications lines in which the player selects a specified group of numbers out of a predetermined range of numbers.

9. "Instant lottery" means a game that offers preprinted tickets that indicate immediately whether the player has won.

Sec. 103. NEW SECTION. 99E.3 ESTABLISHMENT OF LOTTERY — APPOINTMENT OF COMMISSIONER — OTHER EMPLOYEES.

1. A state agency is established to be known as the Iowa lottery agency. Except as provided in section 99E.9, subsection 3, paragraph "b", the Iowa lottery agency is subject to chapter 17A. It is a separate agency of state government whose head is the commissioner.

2. The commissioner shall be qualified by training and experience to direct the lottery. The commissioner shall be appointed by the governor within thirty days after the effective date of this Act subject to confirmation by the senate, and shall serve at the pleasure of the governor. A vacancy occurring in the office of the commissioner shall be filled in the same manner as the original appointment. Section 2.32 applies to the appointment of the commissioner. The commissioner shall devote time and attention solely to the duties of the office and shall not be engaged in any other profession or occupation. The commissioner shall receive a salary determined by the governor within salary range five as set by the general assembly.

3. The commissioner may employ clerks, stenographers, inspectors, agents, and other employees pursuant to chapter 19A as necessary to carry out this chapter, except as provided in section 99E.14, subsection 2.

Sec. 104. NEW SECTION. 99E.4 COMMISSIONER'S OATH — BOND — EMPLOYEES — BONDING OF EMPLOYEES.

1. Before taking office, the commissioner shall take an oath to faithfully execute the duties of the office according to the laws of the state, and shall give bond with sufficient surety to be approved by the governor in the sum of not less than twenty-five thousand dollars, conditioned upon faithful execution and performance of the duties of the office. The bond when fully executed and approved shall be filed in the office of the secretary of state. When in the governor's opinion the bond has become or is likely to become invalid or insufficient, the governor shall require the commissioner to renew the bond in an amount approved by the governor but not less than twenty-five thousand dollars. The cost of a bond given shall be part of the necessary expenses of the lottery.

2. The commissioner shall employ personnel necessary to implement this chapter. The commissioner may require lottery agency employees to give bond in an amount the commissioner determines. Each bond when fully executed and approved shall be filed in the office of the secretary of state. The cost of each bond given shall be part of the necessary expenses of the lottery. The commissioner may obtain a blanket bond to cover personnel of the lottery agency for which the commissioner requires a bond.

Sec. 105. NEW SECTION. 99E.5 LOTTERY BOARD.

An Iowa lottery board is created to consist of five members, not more than three of whom shall be from the same political party, and who shall be appointed by the governor subject to confirmation by the senate. The governor shall appoint the board members within sixty days of the effective date of this Act. The term of each member shall begin and end as provided in section 69.19. A vacancy on the board shall be filled in the same manner as regular appointments are made and the term shall be for the unexpired portion of the regular term.



Sec. 106. NEW SECTION. 99E.6 BOARD QUALIFICATIONS.

Board members shall be residents of this state. At least one member of the board shall be a person who has been a law enforcement officer for not less than five years, one member shall be an attorney admitted to the practice of law in Iowa for not less than five years, and one member shall be a certified public accountant who has practiced accountancy in Iowa for not less than five years.

Sec. 107. NEW SECTION. 99E.7 BOARD MEETINGS.

The board shall hold at least one meeting each month and as often as necessary. The board shall select a chairperson from its membership at the first regular meeting of the board and shall thereafter select a chairperson at the first regular meeting of each fiscal year. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the board constitutes a quorum.

Sec. 108. NEW SECTION. 99E.8 EXPENSES — SALARY.

Members of the board shall be compensated at a rate of six thousand dollars per year. Members shall also be allowed the actual and necessary expenses incurred in the performance of their duties. The expenses incurred by members of the board and the salaries paid to members of the board are part of the necessary expenses of the lottery agency.

Sec. 109. NEW SECTION. 99E.9 DUTIES OF THE BOARD — RULES — COMMISSIONER.

1. The board and the commissioner shall supervise the lottery in order to produce the maximum amount of net revenues for the state in a manner which maintains the dignity of the state and the general welfare of the people.

2. Subject to the approval of the board, the commissioner may enter into contracts for the operation and marketing of the lottery, except that the board may by rule designate classes of contracts other than major procurements which do not require prior approval by the board. A major procurement shall be as the result of competitive bidding with the contract being awarded to the responsible vendor submitting the lowest and best proposal. However, before a contract for a major procurement is awarded, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the vendor, any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest of the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded. The vendor shall submit to the division of criminal investigation appropriate investigation authorizations to facilitate this investigation. A contract for a major procurement awarded or entered into by the commissioner with an individual or business organization shall require that individual or business organization to establish a permanent office in this state. As used in this subsection, "major procurement" means consulting agreements and the major procurement contract with a business organization for the printing of tickets, or for purchase or lease of equipment or services essential to the operation of a lottery game.

3. Except as provided in subsection 3, paragraph "b", the board shall make rules in accordance with chapter 17A for implementing and enforcing this chapter. The rules shall include but are not limited to the following subject matters:

a. The fees charged for a license to sell lottery tickets or shares. Revenue received by the lottery from license fees shall be transferred to the lottery fund immediately after the cost of processing license applications is deducted.

b. The types of lottery games to be conducted. Rules governing the operation of a class of games are subject to chapter 17A. However, rules governing the particular features of

specific games within a class of games are not subject to chapter 17A. Such rules may include, but are not limited to, setting the name and prize structure of the game and shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the commissioner. The board shall authorize instant lottery and on-line lotto games and may authorize the use of any type of lottery game that on the effective date of this Act has been conducted by a state lottery of another state in the United States, or any game that the board determines will achieve the revenue objectives of the lottery and is consistent with subsection 1. However, the board shall not authorize a game using electronic computer terminals or other devices if the terminals or devices dispense coins or currency upon the winning of a prize. In a game utilizing instant tickets, each ticket in the game shall bear a unique consecutive serial number distinguishing it from every other ticket in the game, and each lottery number or symbol shall be accompanied by a confirming caption consisting of a repetition of a symbol or a description of the symbol in words. In the game other than an instant game which uses tangible evidence of participation, each ticket shall bear a unique serial number distinguishing it from every other ticket in the game.

c. The price of tickets or shares in the lottery, including but not limited to authorization of sales of tickets or shares at a discount for marketing purposes.

d. The number and size of the prizes on the winning tickets or shares, including but not limited to prizes of free tickets or shares in lottery games conducted by the lottery and merchandise prizes. The lottery agency shall maintain and make available for public inspection at its offices during regular business hours a detailed listing of the estimated number of prizes of each particular denomination that are expected to be awarded in any game that is on sale or the estimated odds of winning the prizes and, after the end of the claim period, shall maintain and make available a listing of the total number of tickets or shares sold in a game and the number of prizes of each denomination which were awarded.

e. The method of selecting the winning tickets or shares and the manner of payment of prizes to the holders of winning tickets or shares. The rules may provide for payment by the purchase of annuities in the case of prizes payable in installments. Lottery employees shall examine claims and shall not pay any prize for altered, stolen, or counterfeit tickets or shares nor tickets or shares which fail to meet validation rules established for a lottery game. A prize shall not be paid more than once. If the commissioner determines that more than one person is entitled to a prize, the sole remedy of the claimants is to receive an equal share in the single prize. The rules may provide for payment of prizes directly by the licensee.

f. The methods of validation of the authenticity of winning tickets or shares.

g. The frequency of selection of winning tickets or shares. Drawings shall be held in public. Drawings shall be witnessed by an independent certified public accountant. Equipment used to select winning tickets or shares or participants for prizes shall be examined by lottery agency employees and an independent certified public accountant prior to and after each public drawing.

h. Requirements for eligibility for participation in runoff drawings, including but not limited to requirements for submission of evidence of eligibility.

i. The locations at which tickets or shares may be sold.

j. The method to be used in printing and selling tickets or shares. An elected official's name shall not be printed on the tickets. The overall estimated odds of winning a prize in a given game shall be printed on each ticket if the games have either preprinted winners or fixed odds. Estimated odds of winning a prize are not required to be printed on tickets in lottery games of a pari-mutuel nature. As used in this paragraph, "games of a pari-mutuel nature"

means a game in which the amount of the winnings and the odds of winning are determined by the number of participants in the game.

k. The issuing of licenses to sell tickets or shares. In addition to any other rules made regarding the qualifications of an applicant for a license, a person shall not be issued a license unless the person meets the criteria established in section 99E.16, subsection 7.

l. The compensation to be paid licensees including but not limited to provision for variable compensation based on sales volume or incentive considerations.

m. The form and type of marketing, informational, and educational material to be permitted. Marketing material and campaigns shall include the concept of investing in Iowa's economic development and show the economic development initiatives funded from lottery revenue.

n. Subject to section 99E.10, the apportionment of the annual revenues accruing from the sale of lottery tickets or shares and from other sources for the payment of prizes to the holders of winning tickets or shares and for the following:

(1) The payment of costs incurred in the operation and administration of the lottery and the lottery agency, including the expenses of the lottery and the cost resulting from contracts entered into for consulting or operational services, or for marketing.

(2) Actual and necessary expenses of all audits performed pursuant to section 99E.20, subsection 3.

(3) Incentive programs for lottery licensees and lottery employees.

(4) Payment of compensation to licensees necessary to provide for the adequate availability of tickets, shares, or services to prospective buyers and for the convenience of the public.

(5) The purchase or lease of lottery equipment, tickets, and materials.

4. The board and the commissioner may enter into written agreements or compacts with another state or states for the operation, marketing, and promotion of a joint lottery or joint lottery games.

5. Whenever possible when the lottery agency awards a contract under subsection 2, for the lease, purchase, or servicing of a machine to be used in the conducting of a lottery game including, but not limited to, a video lottery machine or machine used in lotto, the lottery agency shall give preference to awarding the contract to a person whose primary place of business is in Iowa.

**Sec. 110. NEW SECTION. 99E.10 ALLOCATION AND APPROPRIATION OF FUNDS GENERATED – IOWA PLAN FUND.**

1. Upon receipt of any revenue, the commissioner shall deposit the moneys in the lottery fund created pursuant to section 99E.20. As nearly as is practicable, forty-five percent of the projected annual revenue computed on a year-round average basis for each type of lottery game accruing from the sale of tickets or shares is appropriated for payment of prizes to the holders of winning tickets. After the payment of prizes, all of the following shall be deducted from lottery revenue prior to disbursement:

a. An amount equal to one half of one percent of the gross lottery revenue shall be deposited in a gamblers assistance fund in the office of the treasurer of state. Moneys in the fund shall be administered by the commissioner of human services and used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of gamblers anonymous and similar assistance programs.

b. The expenses of conducting the lottery including the reasonable expenses incurred by the attorney general's office in enforcing this chapter.

c. The contractual expenses required in this paragraph. The division of criminal investigation shall be the primary state agency responsible for investigating criminal violations of the law under this chapter. The commissioner shall contract with the department of public safety for investigative services, including the employment of special agents and support personnel, and procurement of necessary equipment to carry out the responsibilities of the division of criminal investigation under the terms of the agreement and this chapter.

Lottery agency expenses for marketing, educational, and informational material shall not exceed four percent of the lottery revenue.

The Iowa plan fund for economic development, also to be known as the Iowa plan fund, is created in the office of the treasurer of state. Lottery revenue remaining after expenses are determined shall be transferred to the Iowa plan fund on a quarterly basis. However, upon the request of the commissioner and subject to approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery revenue. Prior to the quarterly transfer to the Iowa plan fund, the commissioner may direct that lottery revenue shall be deposited in the lottery fund and in interest bearing accounts designated by the treasurer of state in the financial institutions of this state or invested in the manner provided in section 452.10. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the Iowa plan fund in the same manner as other lottery revenue. Money in the Iowa plan fund shall be deposited in interest bearing accounts in financial institutions in this state or invested in the manner provided in section 452.10. The interest or earnings on the deposits or investments shall be considered part of the Iowa plan fund and shall be retained in the fund unless appropriated by the general assembly.

2. Funds transferred to the Iowa plan fund shall be used for economic development initiatives. As used in this subsection "economic development initiatives" means initiatives which encourage development of capital, research and development of new products, and development of jobs in this state by expanding existing business and industry, upgrade academic institutions in order to maintain and attract business and industry, creating new businesses and industries, encourage the conservation of energy in order to create new jobs and attract new business and industry, develop alternate methods for the disposal of solid or hazardous waste, develop markets for products grown or produced or manufactured in the state including the promotion of Iowa and Iowa products, and make grants and loans available to local communities for local economic development initiatives. "Economic development initiatives" does not include providing loans, grants, bonds, or any other incentive or assistance for the construction of a racetrack or other facility where gambling will be permitted.

3. Funds equal to any initial appropriation from the general fund to the lottery shall be returned to the general fund from the receipts of the sale of tickets or shares not later than July 1, 1986. The comptroller shall not include lottery revenues in the comptroller's fiscal year revenue estimates. Moneys in the Iowa plan fund shall not be considered to be a part of the Iowa economic emergency fund.

Sec. 111. NEW SECTION. 99E.11 REPORTS.

1. The commissioner shall report quarterly to the governor, the treasurer of state, and the general assembly. The quarterly report shall include the total lottery revenue, prize disbursements, and other expenses for the preceding quarter. The fourth quarter report shall be included in the annual report made pursuant to subsection 2.

2. The commissioner also shall report annually to the governor, the treasurer of state, and the general assembly. The annual report shall include a complete statement of lottery revenues, prize disbursements, and other expenses, and recommendations for changes in the law which the commissioner deems necessary or desirable. The annual report shall be submitted within ninety days after the close of a fiscal year.

3. The commissioner shall report immediately to the governor, the treasurer of state, and the general assembly any matters that require immediate changes in the law in order to prevent abuses or evasions of this chapter or rules adopted or to rectify undesirable conditions in connection with the administration or operation of the lottery.

Sec. 112. NEW SECTION. 99E.12 STUDIES.

1. The commissioner shall make a continuous study of the lottery to ascertain any defects of this chapter or in the rules which could result in abuses in the administration and operation of the lottery or in any evasion of this chapter or the rules of the commissioner and make recommendations for improvement in this chapter.

2. The commissioner shall make a continuous study of the operation and the administration of similar laws in effect in other states, written material on the subject which is published or available, federal laws which may affect the operation of the lottery, and the reaction of citizens to existing and potential features of the lottery in order to recommend changes that will serve the purposes of this chapter.

3. The commissioner shall make a demographic study of lottery players.

4. The commissioner shall contract with the department of human services to conduct a study of the extent to which the lottery creates a compulsive gambling problem among lottery players and the impact of gambling on affected families.

Sec. 113. NEW SECTION. 99E.13 CONFLICT OF INTEREST — PENALTY.

1. A member of the board, the commissioner, or an employee of the lottery shall not directly or indirectly, individually, as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation have an interest in a business which contracts for the operation and marketing of the lottery as authorized by section 99E.9, subsection 2.

2. A member of the board, the commissioner, an employee of the lottery, or a member of their immediate family shall not ask for, offer to accept, or receive a gift, gratuity, or other thing of more than fifty dollars in value from a person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery or from an applicant for a license to sell tickets or shares in the lottery or from a licensee.

3. A person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery, an applicant for a license to sell tickets or shares in the lottery, or a licensee shall not offer a member of the board, the commissioner, an employee of the lottery, or a member of their immediate family a gift, gratuity, or other thing of more than fifty dollars in value.

4. A board member, commissioner, or employee of the lottery who violates a provision of this section, or if a member of their immediate family violates a provision of this section, shall be immediately removed from the office or position.

5. A violation of this section is a serious misdemeanor.

6. As used in this section, "member of their immediate family" means a spouse, child, step-child, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent of the board member, the commissioner, or the employee.

7. Enforcement of this section against a board member or commissioner shall be by the attorney general who upon finding a violation shall initiate an action to remove the board member or commissioner.

8. In addition to the prohibitions of this section, the prohibitions of sections 722.1 and 722.2 are applicable.

Sec. 114. NEW SECTION. 99E.14 LOTTERY DIVISIONS — DIRECTORS.

1. The Iowa lottery agency has three divisions:

a. A security and licensing division.

- b. An administrative division.
- c. A marketing, education, and information division.

2. Each division is under the supervision of a director appointed by the commissioner and each director shall have expertise in the functions of the division. The position of director is exempt from the provisions of chapter 19A. The commissioner shall designate one of the directors to serve as acting commissioner during the commissioner's absence.

3. Departments, boards, commissions, or other agencies of this state shall provide reasonable assistance to the lottery upon the request of the commissioner.

Sec. 115. NEW SECTION. 99E.15 POWER TO ADMINISTER OATHS AND TAKE TESTIMONY – SUBPOENA.

The commissioner or the commissioner's designee authorized to conduct an inquiry, investigation, or hearing under this chapter may administer oaths and take testimony under oath relative to the matter of inquiry, investigation, or hearing. At a hearing ordered by the commissioner, the commissioner or the designee may subpoena witnesses and require the production of records, papers, and documents pertinent to the hearing.

Sec. 116. NEW SECTION. 99E.16 LICENSING – BONDS.

1. The commissioner shall license persons to sell lottery tickets or shares to best serve public convenience. A licensee shall not engage in business exclusively to sell lottery tickets or shares. However, the board may approve a special license to permit a licensee or the lottery agency itself to sell lottery tickets or shares to the public at special events approved by the board. Before issuing a license the commissioner shall consider the financial responsibility and security of the applicant, the applicant's business or activity, the accessibility of the applicant's place of business or activity to the public, the sufficiency of existing licensees to serve the public convenience, and the volume of expected sales. A licensee shall cooperate with the lottery by using point-of-purchase materials, posters, and other educational, informational, and marketing materials when requested to do so by the lottery. Lack of cooperation is sufficient cause for revocation of a person's license.

2. A licensee shall sell tickets or shares only on the premises stated in the license. The licensee shall only sell a ticket or share in person and not over a telephone. The licensee shall accept payment in cash only. The licensee shall not extend or arrange credit for the purchase of a ticket or share. As used in this subsection "cash" means United States currency. "Cash" does not mean any other form of payment including, but not limited to, check, credit card, or a negotiable instrument.

3. A licensee shall display the license or a copy of the license together with the lottery rules wherever tickets or shares are sold. A license is not assignable or transferable. The commissioner may issue a temporary license when deemed necessary.

4. The commissioner may require a bond from a licensee in an amount as provided in the rules graduated according to the volume of expected sales of lottery tickets or shares by the licensee, or may require a licensee to furnish evidence of financial responsibility.

5. A bond shall not be canceled by a surety on less than thirty days' notice in writing to the commissioner. If a bond is canceled and the licensee fails to file a new bond with the commissioner in the required amount on or before the effective date of cancellation, the licensee's license shall be automatically suspended. A suspended license shall be revoked if the requirements of this subsection are not met within thirty days of the license suspension. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

6. Subject to the approval of the board, the commissioner may authorize compensation to licensees in the manner and amounts and subject to the limitations the commissioner determines if the commissioner finds that compensation is necessary to assure adequate availability of lottery tickets or shares.

7. A license shall be granted only after the commissioner finds all of the following:

- a. The applicant is at least eighteen years of age.
- b. The person has not been convicted of a fraud or a felony.
- c. The person has not been convicted or found to have committed a violation of this chapter.
- d. The person has not previously had a license issued under this chapter revoked.
- e. The person has not had a license to sell lottery tickets or shares in another jurisdiction suspended or revoked by the authority regulating a lottery or by a court of that jurisdiction.
- f. The applicant has demonstrated financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.
- g. The applicant is the true owner of the proposed lottery business and that all persons holding at least a ten percent ownership interest in the applicant's business has been disclosed.

h. The applicant has not knowingly made a false statement of material fact to the commission.

8. If after a license is granted the commissioner finds that the licensee has violated this section, then the commissioner shall revoke the license.

**Sec. 117. NEW SECTION. 99E.17 SUSPENSION OR REVOCATION OF LICENSE — HEARINGS — HEARING BOARD.**

1. The commissioner may suspend or revoke the license of a licensee who violates a provision of this chapter or a rule adopted pursuant to this chapter. If the commissioner suspends or revokes a license, or refuses to grant a license, the aggrieved party is entitled to a hearing by filing a written request with the commissioner. Upon receipt of the request for hearing, the commissioner shall set a hearing date within thirty days of receipt of the request, and shall notify the aggrieved party, in writing, at least seven days in advance of the hearing date. The commissioner may stay the revocation or suspension of a license pending the outcome of the hearing, when a stay is requested with the request for hearing.

2. A three-member hearing board for the purpose of conducting hearings relating to controversies concerning the issuance, suspension, or revocation of licenses is created. One member shall be a designee of the board, one member shall be the treasurer of state or a designee of the treasurer of state, and one member shall be the commissioner of public safety or a designee of the commissioner of public safety. The lottery board shall adopt rules and procedures for conducting the hearings.

3. A license shall be suspended for a period deemed appropriate by the commissioner. A former licensee whose license is revoked is not eligible to receive another license.

**Sec. 118. NEW SECTION. 99E.18 PROHIBITED SALES OF TICKETS OR SHARES — FORGERY — PENALTIES.**

1. A ticket or share shall not be sold at a price greater than that fixed by the board and the commissioner and a sale shall not be made other than by a licensee or an employee of the licensee who is authorized by the licensee to sell tickets or shares. A person who violates a provision of this subsection is guilty of a simple misdemeanor.

2. A ticket or share shall not be sold to a person who has not reached the age of eighteen. This does not prohibit the lawful purchase of a ticket or share for the purpose of making a gift to a person who has not reached the age of eighteen. A licensee or a licensee's

employee who knowingly sells or offers to sell a lottery ticket or share to a person who has not reached the age of eighteen is guilty of a simple misdemeanor. In addition the license of a licensee shall be suspended. A prize won by a person who has not reached the age of eighteen but who purchases a winning ticket or share in violation of this subsection shall be forfeited.

3. A ticket or share shall not be purchased by and a prize shall not be paid to the commissioner, a board member or employee of the lottery agency, or to a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent residing as a member of the same household in the principal residence of the commissioner, a board member, or an employee. A ticket or share purchased in violation of this subsection is void.

4. A person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a lottery ticket or share is guilty of a class D felony.

**Sec. 119. NEW SECTION. 99E.19 DISTRIBUTION OF PRIZES — UNCLAIMED PRIZES — PAYMENT PER WINNING TICKET.**

1. The commissioner shall award the designated prize to the ticket or share holder upon presentation of the winning ticket or confirmation of a winning share.

All prizes awarded are Iowa earned income. All lottery winnings are subject to state and federal income tax laws. An amount deducted from the prize for payment of a state tax shall be transferred by the commissioner to the state department of revenue on behalf of the prize winner. Unclaimed prize money for the prize on a winning ticket or share shall be retained for a period deemed appropriate by the commissioner, subject to approval by the board. If a valid claim is not made for the money within the applicable period, the prize money shall be added to future prize pools and given to holders of winning tickets or shares in addition to amounts already allocated.

2. The prize shall be given to the person who presents a winning ticket. A prize may be given to only one person per winning ticket. However, a prize shall be divided between holders of winning tickets if there is more than one winning ticket. Payment of a prize may be made to the estate of a deceased prize winner or to another person pursuant to an appropriate judicial order. The commissioner is discharged of all further liability upon payment of a prize pursuant to this subsection. This section does not prohibit the making of a gift of a lottery ticket or share to a person.

**Sec. 120. NEW SECTION. 99E.20 DEPOSIT OF RECEIPTS FROM TICKET OR SHARE SALES — LOTTERY FUND — QUARTERLY AUDITS.**

1. The board shall adopt rules for the deposit as soon as possible in the lottery fund of money received by licensees from the sale of tickets or shares less the amount of compensation, if any, authorized under section 99E.16, subsection 6. Subject to approval of the board, the commissioner may require licensees to file with the commissioner reports of receipts and transactions in the sale of tickets or shares. The reports shall be in the form and contain the information the commissioner requires.

2. A lottery fund is created in the office of the treasurer of state. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The commissioner shall certify quarterly that portion of the fund that is transferred to the Iowa plan fund under section 99E.10 and shall cause that portion to be transferred to the Iowa plan fund of the state.

3. The auditor of state or a certified public accounting firm appointed by the auditor shall conduct quarterly and annual audits of all accounts and transactions of the lottery and other special audits as the auditor of state, the general assembly, or the governor deems necessary. The auditor or a designee conducting an audit under this chapter shall have access and authority to examine any and all records of licensees necessary to determine compliance with this chapter and the rules adopted pursuant to this chapter.



Sec. 121. NEW SECTION. 99E.21 LIABILITY AND FUNDING.

The board and the commissioner shall operate the lottery so that after the initial state appropriation, it shall be self-sustaining and self-funded. A claim for the payment of an expense of the lottery and the payment of a lottery prize shall not be made unless it is against the lottery fund or money collected from the sale of lottery tickets or shares. Except for the initial appropriation to the lottery, funds of the state shall not be used or obligated to pay the expenses of the lottery or prizes of the lottery.

Sec. 122. Section 422.45, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 22. The gross receipts from the sales of lottery tickets or shares in lottery games conducted pursuant to chapter 99E.

Sec. 123. Section 537A.4, unnumbered paragraph 2, Code 1985, is amended to read as follows:

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter 99E.

Sec. 124. Section 692.2, subsection 1, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. e. The state lottery agency for purposes of section 99E.9, subsection 2.

Sec. 125. Section 725.12, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If any person make or aid in making or establishing, or advertise or make public any a scheme for any a lottery; or advertise, offer for sale, sell, negotiate, dispose of, purchase, or receive any a ticket or part of a ticket in any a lottery or number thereof of a ticket in a lottery; or have in the person's possession any a ticket, part of a ticket, or paper purporting to be the number of any a ticket of any a lottery, with intent to sell or dispose of the same ticket, part of a ticket, or paper on the person's own account or as the agent of another, the person commits a serious misdemeanor. However, this section does not prohibit the possession by a person of a lottery ticket, part of a ticket, or number of a lottery ticket from a lottery legally operated or permitted under the laws of another jurisdiction.

Sec. 126. Section 725.15, Code 1985, is amended to read as follows:

725.15 EXCEPTIONS FOR LEGAL GAMBLING.

Sections 725.5 to 725.10 and ~~section~~ 725.12 shall do not apply to any a game, activity, ticket or device when lawfully possessed, used, conducted or participated in pursuant to chapter 99B or chapter 99E.

Sec. 127. The commissioner shall file an initial report with the governor, treasurer of state, and the general assembly by January 15, 1986 detailing the commissioner's efforts regarding the establishment of a lottery and the status of the lottery.

Sec. 128. The commissioner shall initiate and operate instant lottery games by September 15, 1985 and on-line lotto games by May 1, 1986.

Sec. 129. It is the intent of the general assembly that this Act shall have temporary effect only, that chapter 99E is repealed on July 1, 1990 other than to implement the winding down of the operations of the Iowa lottery board. The amendments to sections 537A.4 and 725.15 made in this Act shall be stricken when chapter 99E is repealed.

## DIVISION II

Sec. 201. NEW SECTION. 18.170 TITLE.

Sections 18.171 through 18.175 may be cited as the "Iowa female and minority small business procurement Act."

Sec. 202. NEW SECTION. 18.171 DEFINITIONS.

When used in sections 18.170 through 18.175, unless the context otherwise requires:

1. "Small business" means a business organized for profit which has its principal place of business in Iowa and which is neither dominant in its field of operation nor an affiliate or subsidiary of a business dominant in its field of operation.

2. "Dominant in its field of operation" means exercising a controlling or major influence in a business activity in which a number of businesses are engaged. The following businesses are dominant in their field of operation:

a. Manufacturing businesses which employ more than one hundred persons and whose gross receipts for the preceding three fiscal years exceeded a total of fifteen million dollars.

b. General construction businesses which had gross receipts exceeding a total of six million dollars in the preceding three fiscal years.

c. Speciality construction businesses which had gross receipts exceeding three million dollars in the preceding three fiscal years.

d. Nonmanufacturing businesses which employ more than twenty-five persons and which had gross receipts exceeding three million dollars in the preceding three fiscal years.

3. "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in that field of operation, or by partners, officers, directors, majority shareholders, or their equivalent of a business dominant in that field of operation.

4. "Socially or economically disadvantaged person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of any of the following circumstances:

a. Cultural, social, or economic circumstances or background.

b. Physical location if the person resides or is employed in an area declared a labor surplus area by the United States department of commerce.

c. Other similar cause as defined by rules adopted by the director pursuant to chapter 17A.

Sec. 203. NEW SECTION. 18.172 PROCUREMENT FROM FEMALE AND MINORITY SMALL BUSINESSES.

1. FEMALE AND MINORITY SMALL BUSINESS SET-ASIDES. Notwithstanding section 18.6, the director may designate and set aside for awarding to small businesses owned and operated by females and socially or economically disadvantaged persons approximately five percent of the value of anticipated total state procurement of goods and services, including construction, but not including utility services pursuant to section 18.8, each fiscal year. The director may divide the procurements so designated into contract award units of economically feasible production runs to facilitate offers or bids from these small businesses. In designating set-aside procurements, the director may vary the included procurements so that a variety of goods and services produced by different small businesses may be set aside each year.

2. **NEGOTIATED PRICE OR BID CONTRACT.** The director may use either a negotiated price or bid contract procedure in the awarding of a contract under this set-aside program. The amount of an award shall not exceed by more than five percent the director's estimated price for the goods or services, if they were to be purchased on the open market or under the competitive bidding procedures of section 18.6, and not under this set-aside program. Surety bonds guaranteed by the federal small business administration are acceptable security for a construction award under this section.

3. **DETERMINATION OF ABILITY TO PERFORM.** Before announcing a set-aside award, the director shall evaluate whether the small business scheduled to receive the award is able to perform the set-aside contract. This determination shall include consideration of production and financial capacity and technical competence.

4. **PROCUREMENT PROCEDURES.** All laws and rules pertaining to solicitations, bid evaluations, contract awards, and other procurement matters apply to procurements set aside for small businesses to the extent there is no conflict. If sections 18.171 through 18.175 conflict with other laws or rules, then sections 18.171 through 18.175 govern.

Sec. 204. **NEW SECTION. 18.173 ROLE OF DEVELOPMENT COMMISSION.**

The director of general services may assist the director of the Iowa development commission in publicizing the set-aside program, attempting to locate small businesses able to perform set-aside awards, and encouraging program participation. When the director of general services determines that a female or minority business is unable to perform under a set-aside contract, the director of general services shall inform the director of the Iowa development commission who shall assist the small business in attempting to remedy the causes of the inability to perform. In assisting the small business, the director of the Iowa development commission in cooperation with the director of general services may use any management or financial assistance programs available through state or governmental agencies or private sources. Primary responsibility under this section rests with the director of the Iowa development commission.

Sec. 205. **NEW SECTION. 18.174 CERTIFICATION.**

The director shall adopt by rule standards and procedures for certifying that small businesses owned and operated by females and socially or economically disadvantaged persons are eligible to participate in the set-aside program. The procedure for determination of eligibility may include self-certification by a business, provided the director retains the ability to verify a self-certification. The director of general services shall maintain a current directory of small businesses which have been certified under this section.

Sec. 206. **NEW SECTION. 18.175 REPORTS.**

1. **DIRECTOR OF GENERAL SERVICES.** The director of general services shall submit an annual report to the governor and the general assembly with a copy to the director of the Iowa development commission relating progress towards realizing the objectives and goals of sections 18.171 through 18.174 during the preceding fiscal year. The report shall include the following information:

a. The total dollar value and number of potential set-aside awards identified and the percentage of total state procurements this figure reflects.

b. The total dollar value and number of set-aside contracts awarded to small businesses owned and operated by females and economically or socially disadvantaged persons with appropriate designation as to the total number and value of set-aside contracts awarded to each small business, and the percentages of the total state procurements the figures of total dollar value and the number of set-asides reflect.

c. The number of contracts which were designated and set aside pursuant to section 18.172, but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business and the price at which these contracts were awarded pursuant to the normal procurement procedures.

2. **DIRECTOR OF THE IOWA DEVELOPMENT COMMISSION.** The director of the Iowa Development Commission shall submit an annual report to the governor and the general assembly with a copy to the director of general services. The report shall include the following information:

a. The efforts undertaken to publicize the set-aside program during the preceding year.

b. The efforts undertaken to identify small businesses owned and operated by females and socially or economically disadvantaged persons, and the efforts undertaken to encourage participation in the set-aside program.

c. The efforts undertaken by the director to remedy the inability of these small businesses to perform on potential set-aside awards.

d. The director's recommendations for strengthening the set-aside program and delivery of services to these small businesses.

Sec. 207. Section 28.7, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** Aid in the set aside of procurements for small businesses owned and operated by females and economically or socially disadvantaged persons pursuant to sections 18.171 to 18.175.

### DIVISION III

Sec. 301.

1. The treasurer of state shall, for the fiscal year beginning July 1, 1985 and ending June 30, 1986, make allotments of the moneys within the Iowa plan fund for economic development created in section 99E.10 to separate accounts within that fund as follows:

a. The first eleven million ninety-two thousand dollars to the "Jobs Now Capitals" account.

b. After the allotment in paragraph "a", ten million dollars to the "Community Economic Betterment" account, eight million five hundred thousand dollars to the "Jobs Now" account, and twelve million five hundred thousand dollars to the "Education and Agriculture Research and Development" account.

c. After the allotments have been made under paragraphs "a" and "b", the excess is allotted equally to the community economic betterment account and to the "Surplus" account.

d. Before the treasurer makes the allotments under paragraphs "a", "b", and "c", the treasurer shall repay to the general fund the loan for start-up purposes of the Iowa lottery, shall repay to the general fund the sum of one million twenty thousand dollars which was appropriated for the fiscal year beginning July 1, 1985 from the general fund to the department of general services for capitol building restoration and major repairs, and shall repay to the general fund the sum of five million two hundred fifty thousand dollars which was appropriated for the fiscal period beginning July 1, 1985 and ending June 30, 1989 from the general fund to the department of general services for the engineering, planning and construction of a new state historical building under 1984 Iowa Acts, chapter 1316, section 4.

2. There is appropriated from the allotment made to the community economic betterment account under subsection 1 for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the Iowa development commission the amount in that account, or so much thereof as may be necessary, to be used for the following purposes:

a. Principal buy-down program to reduce the principal of a business loan.

b. Interest buy-down program to reduce the interest on a business loan.

c. Grants and loans to aid in economic development.

d. Site development or infrastructure costs directly related to a project resulting in new employment.

e. Road construction projects.

Only a political subdivision of the state may apply to receive funds for any of the above purposes. The political subdivision shall make application to the commission specifying the purpose for which the funds will be used. In ranking applications for funds, the commission shall consider the proportion of political subdivision match to be provided, the proportion of private contributions to be provided, the total number of jobs to be created, the recapture, if any, of these funds by the political subdivision that will occur, level of need in the political subdivision, and impact of proposed project on the economy of the political subdivision. The commission shall not provide more than one million dollars for any project, unless at least two thirds of the members of the commission vote for providing more. However, after the first ten million dollars in the community economic betterment account have been provided to political subdivisions, the amount that may be provided by the commission for a project from additional moneys credited to that account is not subject to the one million dollar limitation.

An eligible road construction project is one involving highway improvements which support and assist economic development.

The commission shall take applications from state, city, or county government entities for road construction projects. The commission shall prioritize the projects and determine which projects shall be funded. However, the approval of the department of transportation is necessary for planning, design, construction and maintenance and other activities as provided in section 307.24. The commission shall make the final selection of which projects will be funded. Matching funds on a dollar-for-dollar basis for each project funded shall be required. The source of the matching funds shall be determined by the type of project. Thus a match from the primary road fund is required for a project involving a primary road. The department of transportation does not have the right to reject a project for which a match of primary road funds is required. If the department of transportation disapproves of a project for which a match of primary road funds is required, the reasons shall be supplied to the applicant and commission. But the commission may still approve such project, and once approved, matching funds are to be provided.

In prioritizing the road construction projects and determining which shall be funded, the commission shall consider the economic benefits of the project to the local community and the state as a whole, including but not limited to the number of direct and indirect jobs created.

3. There is appropriated from the allotment made to the jobs now account under subsection 1 for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the following funds, agencies, boards or commissions the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

a. To the state conservation commission the sum of two million five hundred thousand (2,500,000) dollars for the development of parks, recreation areas, forest, fish and wildlife areas, and natural areas, and for related technical services for carrying out these projects. Not more than five hundred thousand (500,000) dollars shall be set aside to match private funds available for the acquisition of natural areas with unique or unusual features. Not more than four hundred thousand (400,000) dollars shall be set aside for the acquisition of land for expansion or development of state forests and state fish and wildlife areas. Not more than seven hundred fifty thousand (750,000) dollars shall be set aside for use in providing grants-in-aid to county conservation boards for carrying out acquisition and

development projects as provided in chapter 111A. Any of the above funds can be matched with any available federal funds or with any available federal or local funds in the case of grants-in-aid to county conservation boards.

b. To the energy policy council the sum of one hundred fifty thousand (150,000) dollars to provide for energy management auditing services and administrative costs associated with the establishment of lease-purchase conservation projects for state buildings. The appropriation under this paragraph is contingent upon the passage and enactment into law of Senate File 303.

c. To the Iowa product development fund the sum of two million (2,000,000) dollars for the purposes provided in section 28.89.

d. To the office for planning and programming the sum of one million (1,000,000) dollars for additional and supplemental funding for the child care services program and the displaced homemakers program in connection and coordination with the federal Job Training Partnership Act of 1982 and funding for a child care grants program to provide grants of up to ten thousand dollars for start-up funding for before and after school programs using school facilities, infant care programs, child care information and referral centers, and on-site employer day care. An application for a grant under the child care grants program shall include a study documenting a need for the service or program for which the grant is sought and a plan for implementation of the service or program which plan includes a listing of other sources of income, the staff to be employed, and the method to make the service or program self-supporting within three years.

e. To the office for planning and programming the sum of two hundred fifty thousand (250,000) dollars for the purposes of the community cultural grants program established under 1983 Iowa Acts, chapter 207, section 92.

f. To the Iowa development commission the sum of two million six hundred thousand (2,600,000) dollars for the purposes designated as follows:

- (1) Business incubators.
- (2) Satellite centers under division VI of this Act.
- (3) Federal procurement offices.
- (4) Tourism and marketing.
- (5) Iowa main street program.

4. There is appropriated from the allotment made to the education and agriculture research and development account under subsection 1 for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the following funds, agencies, boards or commissions the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

a. To the Iowa college aid commission the sum of seven hundred fifty thousand (750,000) dollars for the forgivable loan program established in division VII of this Act. However, funds shall not be transferred to the college aid commission until the college aid commission certifies to the treasurer of state that the association of private colleges and universities and the board of regents will provide an equivalent amount of seven hundred fifty thousand (750,000) dollars for the forgivable loan program for the same fiscal year.

b. To the Iowa development commission the sum of three hundred thousand (300,000) dollars to develop and administer programs to encourage foreign trade. Prior to providing funds for any activity under this paragraph the Iowa development commission shall seek the input of public and private institutions of higher education, relevant government agencies, boards and departments, and private sector businesses involved in foreign trade for the purpose of coordinating trade related resources already available and those created pursuant to

this Act in Iowa higher education institutions. The commission shall also, after seeking input from these entities, initiate the development of trade related curricula and curricula to support potential growth sectors and develop new programs to provide trade assistance to small and medium-sized Iowa businesses including, but not limited to, those created under this paragraph. The commission shall work with Iowa businesses engaged in foreign trade and public and private institutions of higher education to create a comprehensive plan designed to promote and develop the trade of Iowa's agricultural and manufactured products and services in foreign markets and shall coordinate the plan with other public and private foreign trade efforts including those created pursuant to this Act. The Iowa development commission shall require, where feasible, that recipients of moneys appropriated in this section certify to the Iowa development commission that they will provide contributions, either in-kind or financial, equal to up to fifty percent of the moneys the recipient will receive under this section. The programs are as follows:

(1) To establish internships with Iowa businesses involved in foreign trade, with foreign businesses, with foreign governments, and with the Iowa development commission. A student who is enrolled in an Iowa institution of higher education in a course of study that could involve the student in foreign trade is eligible to apply for an internship. College credit will be given in a manner determined by the institution of enrollment. Money granted for internships shall be used for travel expenses and a stipend for the interns.

(2) To establish a program in which professors employed at Iowa institutions of higher education who are familiar with the language and customs of foreign countries are utilized as cultural advisors for the Iowa development commission and for Iowa businesses participating in trade missions and other foreign trade activities.

(3) To establish a program of short courses useful to assist Iowans in developing skills needed to participate in foreign trade, including but not limited to courses in foreign language, foreign culture and business practices, and foreign trade strategies. The short courses shall be developed in cooperation with Iowa institutions of higher education.

(4) To develop a data base of information useful in foreign trade.

(5) To establish a clearinghouse listing of state residents who have political, social, or business contacts in foreign countries.

(6) To provide assistance in foreign language translation for correspondence and other purposes.

(7) To establish a program for conducting a business risk analysis for Iowa businesses seeking markets in foreign countries. Iowa businesses would file requests for the risk analysis with the Iowa development commission. The Iowa development commission shall contract with an Iowa higher education institution for an analysis of conditions in a specific foreign country as requested by an Iowa business, including but not limited to, rate of exchange projections for the currency, political climate, cultural mores relating to business etiquette, market climate, and assessment of the political and social status of the business' personal contacts.

c. To the state board of regents the sum of two hundred thousand (200,000) dollars to be used by the agricultural experiment station at Iowa state university of science and technology for value added research.

d. To the Iowa development commission the sum of ten million (10,000,000) dollars to be allocated by the Iowa development commission for economic development and research and development purposes at an institution of higher education under the control of the state board of regents or at an independent college or university of the state. The institutions

under control of the state board of regents may present proposals to the state board of regents for the use of the funds. The proposals may include, but are not limited to, endowing faculty chairs, conducting studies and research, establishing centers, purchasing equipment, and constructing facilities in the areas of entrepreneurial studies, foreign language translation and interpretation, management development, genetics, molecular biology, laser science and engineering, biotechnology, third crop development, and value-added projects. The proposals shall include certification from the institution, college or university that it will receive from other sources an amount equal to the amount requested in the proposal. The state board of regents shall, for institutions under its control, determine the specific proposals for which it requests funding and submit them to the Iowa development commission. An independent college or university shall submit requests directly to the Iowa development commission. The Iowa development commission shall disburse to the regents' institutions or an independent college or university the moneys for the various proposals requested unless the Iowa development commission disapproves of a specific proposal as inconsistent with the plan for economic development for this state. The applicants may submit additional proposals for those not approved by the Iowa development commission.

e. To the state board of regents the sum of two hundred thousand (200,000) dollars to be used by Iowa state university for the establishment of Iowa farm management program. The cooperative extension service shall administer the program with provisions for cooperation and assistance through the department of public instruction. The program may be offered in conjunction with programs offered at the merged area schools and at school districts. The cooperative extension service may allocate moneys appropriated in this section for the program to area schools and school districts participating in the program. The cooperative extension service may accept gifts from other sources to supplement moneys appropriated in this section.

f. To the legislative council the sum of fifty thousand (50,000) dollars to be used by the alternative crops and livestock study committee created in this paragraph. There is established a twelve-member alternative crops and livestock study committee to study the feasibility of alternative crops and livestock enterprises. The members shall consist of three farmers, three representatives from the agriculture industry, two faculty members from the Iowa state university and four members of the general assembly. The majority and minority leaders of the senate shall each appoint two nonlegislative members and one legislative member from the senate and the speaker and minority leader of the house of representatives shall each appoint two nonlegislative members and one legislative member from the house. The appointers shall consult with each other before making their appointments to ensure the requirements of the makeup of the committee are met. Nonlegislative members shall receive a per diem of forty dollars and be reimbursed for their travel and other necessary expenses actually incurred in the performance of their official duties. Legislative members shall receive, when the general assembly is not in session, a per diem of forty dollars and their travel and other expenses incurred in the performance of their official duties from funds appropriated by section 2.12. The committee shall submit its final report along with any recommendations to the legislative council by January 1, 1986.

g. To the Iowa college aid commission for the summer institute program established pursuant to this paragraph the sum of one million (1,000,000) dollars. Institutions of higher education in the state may submit proposals to the council for postsecondary education for eight-week summer institute programs to upgrade the skills of Iowa teachers in the subject areas of math, science, foreign languages and such other areas as the department of public instruction has indicated a teaching shortage exists. The proposals shall provide for the institutional



reimbursement for the costs of instruction, materials, and room and board for the participants as well as for a weekly stipend of one hundred fifty dollars per week for each participant. The council for postsecondary education shall select the institutions at which the summer institutes shall be conducted. The council for postsecondary education in consultation with the Iowa college aid commission shall establish the criteria for the selection of the teachers to participate in the programs.

5. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the following council, office, and departments the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

a. To the executive council for allocation to the nonprofit corporation organized to facilitate the state's involvement in the Iowa world trade center pursuant to division V of this Act the sum of nine million two hundred fifty thousand (9,250,000) dollars to fund the construction of the state-owned portion of the Iowa world trade center as provided in division V of this Act.

b. To the department of public defense the sum of two hundred forty-three thousand thirty-five (243,035) dollars for the architect, engineering, equipment and construction of the armory in Carroll.

c. To the department of public defense for the purposes and in the amounts designated as follows:

(1) To connect the armory in Cedar Rapids to the city water and sewer lines and for related architect and engineering services the sum of two hundred thirty-four thousand three hundred thirty-five (234,335) dollars.

(2) For the architect, engineering, equipment and construction of an addition to the armory in Cedar Rapids the sum of two hundred sixty-four thousand sixty-four (264,064) dollars.

d. To the department of public instruction the sum of one million (1,000,000) dollars to be allocated to the merged area schools filing requests with the department for the purchase of equipment. The department of public instruction shall allocate moneys to an area school based upon the ability of the area school to provide matching contributions, either in-kind or financial, and the potential for creation of jobs and economic development. The maximum grant to an area school shall not exceed two hundred fifty thousand (250,000) dollars.

e. To the office of the governor the sum of one hundred thousand (100,000) dollars or so much as may be needed for a feasibility study of costs and benefits of a joint telecommunications partnership to be entered into between the state and private firms. The study shall be contracted out to a private firm in the state which is experienced in telecommunications and which has the capability to analyze the technical and economic potential and feasibility of a telecommunications satellite and fiber optics system with state and worldwide capability. The study shall be developed to insure input from the telephone, banking, insurance, television, and other business sectors in the state as well as from the educational community.

6. If the moneys to be allotted to the economic betterment account, jobs now account or education and agriculture research and development account are less than the amount specified in subsection 1, paragraph "b", the moneys appropriated to the funds, agencies, boards or commissions for the purposes specified in subsection 2, 3 or 4, as applicable, shall be reduced by the same percentage decrease in the appropriate allotment.

7. The moneys appropriated in subsections 2, 3, 4 and 5 shall remain in the appropriate account of the Iowa plan fund until such time as the agency, board, commission, or overseer of the fund to which moneys are appropriated has made a request to the treasurer for use of moneys appropriated to it and the amount needed for that use. The treasurer shall withdraw this amount from the amount appropriated to that entity and remit it to the entity not earlier than thirty days after receipt of the request. Notwithstanding section 8.33, moneys remaining of the appropriations made from any of the accounts within the Iowa plan fund on June 30, 1986 shall not revert to any fund but shall remain in that account to be used for the purposes for which they were appropriated and the moneys remaining in that account shall not be considered in making the allotments for the next fiscal year.

8. The agency, board, commission, or overseer of the fund to which moneys are appropriated under this section shall make every effort to maximize the impact of these moneys through government and private matching funds.

Sec. 302.

1. The treasurer of state shall, for the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, make allotments of the moneys within the Iowa plan fund for economic development created in section 99E.10 to separate accounts within that fund as follows:

a. In each of the fiscal years beginning July 1, 1986 and July 1, 1987 the first ten million two hundred fifty thousand dollars, in the fiscal year beginning July 1, 1988 the first three million two hundred fifty thousand dollars and in the fiscal year beginning July 1, 1989 the first one million dollars to the jobs now capitals account.

b. In each of the four fiscal years after the allotment in paragraph "a", ten million dollars to the community economic betterment account, eight million five hundred thousand dollars to the jobs now account, and twelve million five hundred thousand dollars to the education and agriculture research and development account.

c. After the allotments have been made under paragraphs "a" and "b" in each of the fiscal years, the excess is allotted equally to the community economic betterment account and to the "Surplus" account.

2. There is appropriated moneys in the community economic betterment account for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989 to the Iowa development commission to be used for the following purposes in the amounts, or so much thereof as may be necessary, as provided in section 303 of this Act:

a. Principal buy-down program to reduce the principal of a business loan.

b. Interest buy-down program to reduce the interest on a business loan.

c. Grants and loans to aid in economic development.

d. Site development or infrastructure costs directly related to a project resulting in new employment.

e. Road construction projects.

The conditions, criteria and limitations specified in section 301, subsection 2 of this Act applies to the providing of moneys under this subsection.

3. There is appropriated moneys in the jobs now account for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989 to the following funds, agencies, boards or commissions in the amounts, or so much thereof as may be necessary, as provided in section 303 of this Act to be used for the following purposes:

a. To the state conservation commission for the purposes designated in section 301, subsection 3, paragraph "a" of this Act.

b. To the Iowa product development fund for the purposes provided in section 28.89.

c. To the office for planning and programming for the purposes designated in section 301, subsection 3, paragraphs "d" and "e" of this Act.

d. To the Iowa development commission for the purposes designated in section 301, subsection 3, paragraph "f" of this Act.

4. There is appropriated moneys in the education and agriculture research and development account for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989 to the following funds, agencies, boards or commissions in the amounts, or so much thereof as may be necessary, as provided in section 303 of this Act to be used for the following purposes:

a. To the Iowa college aid commission for the forgivable loan program established in division VII of this Act.

b. To the Iowa development commission for the purposes and under the conditions specified in section 301, subsection 4, paragraphs "b" and "d" of this Act.

c. To the state board of regents for the purposes and under the conditions specified in section 301, subsection 4, paragraph "e" of this Act.

d. To the Iowa college aid commission for the purposes and under the conditions specified in section 301, subsection 4, paragraph "g" of this Act.

5. a. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for the fiscal years beginning July 1, 1986, July 1, 1987 and July 1, 1988 to the executive council for allocation to the nonprofit corporation organized to facilitate the state's involvement in the Iowa world trade center pursuant to division V of this Act the sum of nine million two hundred fifty thousand (9,250,000) dollars for each of the fiscal years beginning July 1, 1986 and July 1, 1987 and the sum of two million two hundred fifty thousand (2,250,000) dollars for the fiscal year beginning July 1, 1988 to fund the construction of the state-owned portion of the Iowa world trade center as provided in division V of this Act.

b. There is appropriated from the allotment made to the jobs now capitals account under subsection 1 for each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988 and July 1, 1989 to the department of public instruction the sum of one million (1,000,000) dollars for the purposes and under the conditions specified in section 301, subsection 5, paragraph "d" of this Act.

6. If the moneys to be allotted in a fiscal year to the community economic betterment account, jobs now account or education and agriculture research and development account is less than the amount specified for that fiscal year in subsection 1, paragraph "b" the moneys appropriated for that fiscal year to the funds, agencies, boards or commissions for the purposes specified in subsection 2, 3 or 4, as applicable, shall be reduced by the same percentage decrease in the appropriate allotment.

7. The moneys appropriated in subsections 2, 3, 4 and 5 shall remain in the appropriate account of the Iowa plan fund until such time as the agency, board, commission, or overseer of the fund to which moneys are appropriated has made a request to the treasurer for use of moneys appropriated to it and the amount needed for that use. The treasurer shall withdraw this amount from the amount appropriated to that entity and remit it to the entity not earlier than thirty days after receipt of the request. Notwithstanding section 8.33, moneys remaining of the appropriations made for a fiscal year from any of the accounts within the Iowa plan fund on June 30 of that fiscal year, shall not revert to any fund but shall remain in that account to be used for the purposes for which they were appropriated and the moneys remaining in that account shall not be considered in making the allotments for the next fiscal year.

8. The agency, board, commission, or overseer of the fund to which moneys are appropriated under this section shall make every effort to maximize the impact of these moneys through government and private matching funds.

Sec. 303. For each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, the Iowa partnership for economic progress advisory committee established under division IV of this Act shall submit to the general assembly by March 1 preceding the beginning of the fiscal year planned expenditures from the allotment to be made for that fiscal year to the community economic betterment account, the jobs now account, and the education and agriculture research and development account to each of the funds, agencies, boards or commissions for the purposes specified in subsections 2, 3, and 4 of section 302 of this Act. The Iowa partnership for economic progress shall include a description of planned expenditures to be made of the moneys in the surplus account.

Plans may provide for increased or decreased expenditures if the allotment available for those appropriations is greater than or less than the allotment specified in subsection 1 of section 302 of this Act. In order to enable the Iowa partnership for economic progress to prepare its plans for future expenditures, it has authority to review applications and uses of the moneys appropriated from each allotment. However, this authorized review does not authorize the Iowa partnership for economic progress to veto or deny any application or use and such review shall not cause any delay in the approval of an application or use.

#### DIVISION IV

**\*Sec. 401. NEW SECTION. TITLE.**

This chapter may be cited as the "Economic Development Reorganization Act".

**Sec. 402. NEW SECTION. DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the Iowa development commission.
2. "Committee" or "advisory committee" means the Iowa partnership for economic progress advisory committee, established in section 405 of this Act.
3. "Programs and services" means economic development programs, services and agencies as described in section 403 of this Act.

**Sec. 403. NEW SECTION. GOVERNOR'S REORGANIZATION PLAN.\***

By December 1, 1985, the governor shall submit to the general assembly a proposal for the reorganization and coordination of all state economic development programs and services under one comprehensive department of economic development. \*In the course of developing the reorganization plan, the governor shall consult with the advisory committee. For purposes of this chapter, economic development programs and services shall include, but are not limited to, those which provide one or more of the following:

- a. Community development.
- b. Planning and management assistance.
- c. Technical assistance.
- d. Education and job training.
- e. Financial assistance for programs and services described in paragraphs "a" through "d" and other programs and services, including those that are federally funded but administered by the state, and other federal and local funding programs.

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\*Item veto; see message at end of the Act

**Sec. 404. NEW SECTION. INTERIM COORDINATING AGENCY.**

Upon enactment of this chapter, and until the establishment of a central department of economic development, the Iowa development commission shall be the interim coordinating agency for federal, state and local economic development programs and services. The commission shall adopt, amend, and repeal rules under chapter 17A as it deems necessary to function as the interim coordinating agency. Statewide delivery of programs and services, except for programs and services under the federal Job Training Partnership Act of 1982, shall be accomplished through a network of fifteen subregions which shall correspond to the merged areas as defined in section 280A.2 and which are already in existence.

**Sec. 405. NEW SECTION. ADVISORY COMMITTEE ESTABLISHED.**

The Iowa partnership for economic progress is established to serve as an advisory committee to the commission pending the creation of a department of economic development, at which time the committee will act as an advisory body to the new department. The commission, and ultimately the department of economic development, shall provide the committee with administrative staff personnel in accordance with chapter 19A, and shall provide other assistance as necessary.

**Sec. 406. NEW SECTION. COMPOSITION OF ADVISORY COMMITTEE.**

1. The committee shall consist of thirteen members appointed by the governor subject to confirmation by the senate. Members shall be appointed for four-year terms beginning and ending in accordance with section 69.19.

2. Members shall be appointed from agriculture, local government, business, labor and education as follows:

a. Two members actively engaged in farming. Appointments may be made from lists of nominees which shall be submitted by agricultural associations representing at least twenty-five members.

b. Six members from business, including one representative from small business, one representative from insurance and one representative from agribusiness. Appointees shall be an owner, president, chief executive officer, board member or other senior officer of the firm or organization they represent. Appointments may be made from lists of nominees which shall be submitted by business, trade or industrial associations representing at least twenty-five members.

c. Two members from organized labor. Appointments may be made from lists of nominees which shall be submitted by any organizations authorized to bargain on behalf of people employed in this state.

d. Two members from education. Appointments may be made from lists of nominees which shall be submitted by the board of regents, the association of independent colleges and universities, or the association of community college trustees.

e. One member from local government. Appointment may be made from lists of nominees which shall be submitted by the Iowa state association of counties and the league of municipalities.

f. Each list of nominees submitted shall contain an equal number of females and males.

**Sec. 407. NEW SECTION. ADVISORY COMMITTEE DUTIES.**

1. The committee's duties and responsibilities shall include, but are not limited to the following:

a. To provide assistance as needed or requested by the governor in the development of the governor's proposal for economic development reorganization and coordination. In order to

facilitate the committee's assistance of the governor's office, all economic development agencies and programs shall submit reorganization and coordination proposals and recommendations to the committee within six months of the effective date of this chapter.

b. To submit plans to the general assembly relative to the disbursement of lottery revenues pursuant to division III of this Act.

c. To collaborate with the commission on the review of all disbursements of lottery revenues.

d. To assist the commission in the development and administration of a statewide regional delivery network for programs and services.

e. To review, coordinate and implement other economic development proposals that emerge from studies now underway or recently completed.

f. To assist in the coordination of federal, state, local and private sector programs and services.

g. To analyze, at regular and frequent intervals, the trends and growth opportunities in major sectors of the economy, particularly those represented in the Iowa economy.

h. To analyze, at regular and frequent intervals, the general economic, demographic, state fiscal and business climate indicators that define Iowa's position relative to regional and national trends.

i. To initiate special economic development studies as deemed necessary.

**Sec. 408. NEW SECTION. ORGANIZATION OF ADVISORY COMMITTEE.**

The committee shall annually elect from its membership a chairperson and shall adopt rules to govern its proceedings. Election of the chairperson shall be held at the committee's first meeting in each calendar year. The committee shall meet at least once a month and otherwise as often as necessary. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties in accordance with section 28.2. All per diem and expense moneys paid to the members shall be paid from funds appropriated to the commission.

Sec. 409. Notwithstanding the provisions of section 406 of this Act, of the initial appointees to the committee three members shall be appointed for one-year terms, three members shall be appointed for two-year terms, three members shall be appointed for three-year terms, and four members shall be appointed for four-year terms. The initial appointees' successors shall be appointed to terms of four years each except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the committee member replaced.\*

**DIVISION V**

**Sec. 501. NEW SECTION. 18C.1 DECLARATION OF POLICY AND PURPOSE FOR STATE INVOLVEMENT IN IOWA WORLD TRADE CENTER.**

It is found and declared that there exists a need to promote, develop, maintain, and expand export and trade opportunities for agricultural, commercial, and manufactured products and services and any other products and services of the state in order to protect and advance the welfare and interests of residents of the state; that such export and trade opportunities with other nations can be promoted, developed, maintained, and expanded by the Iowa world trade center; that jobs can be maintained and created in the state as a result of increased export and trade opportunities; and that such economic results will benefit all residents of the state.

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\*Item veto; see message at end of this Act

It is further found and declared that the promotion, development, maintenance, and expansion of exports and trade opportunities are public purposes and uses for which public moneys may be expended, advanced, loaned, or granted; that such activities serve a public purpose in improving export and trade opportunities or otherwise benefiting the people of this state; and that the state's purchase, operation and marketing of a building or facility as part of a world trade center will aid in accomplishing these purposes.

Sec. 502. NEW SECTION. 18C.2 CREATION OF SELECTION ADVISORY COMMITTEE.

1. There is created an Iowa world trade center selection advisory committee, hereafter referred to as "the committee". The committee shall be comprised of five members with one member appointed by the governor, one member appointed by the speaker of the house of representatives, one member appointed by the minority leader of the house of representatives, one member appointed by the majority leader of the senate, and one member appointed by the minority leader of the senate. No two members shall be from the same congressional district. Vacancies shall be filled in the same manner as the appointment of the original members. Members shall not be compensated for their services.

2. The committee shall elect from among its members a chairperson. Meetings shall be held at the call of the chairperson or whenever two committee members request it. Three members shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the committee.

Sec. 503. NEW SECTION. 18C.3 DUTIES OF THE COMMITTEE.

1. It shall be the duty of the Iowa world trade center selection advisory committee to accept and review proposals from private groups to organize, construct, operate, and market the Iowa world trade center. In submitting a proposal, the private group shall also submit a study outlining the feasibility of its proposal. A private group submitting a proposal must include among its investors a significant number of Iowa-based companies and individuals. The committee is empowered to contract for an independent analysis of a proposal submitted. The committee is empowered to recommend for ratification by the executive council a proposal to obligate, but not in excess of thirty million dollars, the state in the construction of the Iowa world trade center under the recommended proposal. However, a proposal shall not be recommended unless the proposal provides that the private group shall provide moneys at least equal to the amount which the committee has recommended for obligation by the state. The proposal recommended by the committee must include an agreement from the private group that construction of the Iowa world trade center will begin no later than December 15, 1985, and that a nonprofit corporation will be created by the private group pursuant to section 18C.4 to facilitate the state's involvement in the construction, operation, and marketing of the Iowa world trade center. In approving a proposal of a private group, the committee may employ other selection criteria that are consistent with the above standards. Once the committee has recommended a contract proposal, it shall be submitted for ratification to the executive council. The committee shall present a proposal by August 1, 1985 for ratification by the executive council.

2. The committee shall cease to exist upon ratification of the contract submitted to the executive council.

3. The members of the committee, upon ratification of the contract by the executive council, shall automatically become the state's representatives on the board of directors of the nonprofit corporation organized to facilitate the state's involvement in the Iowa world trade center pursuant to section 18C.4.

Sec. 504. NEW SECTION. 18C.4 STATE PARTICIPATION IN THE WORLD TRADE CENTER.

1. The state recognizes the nonprofit corporation organized pursuant to the contract ratified by the executive council as the entity that will facilitate the state's involvement in the construction, operation and marketing of the Iowa world trade center. The board of directors of the nonprofit corporation shall consist of nine members.

2. State representation on the nonprofit corporation's board of directors shall consist of five directors serving six-year terms. The initial directors shall be the five members appointed to the committee pursuant to section 18C.2. Vacancies shall be filled in the same manner as the appointment of the original directors.

3. Private representation on the nonprofit corporation's board of directors shall consist of four directors chosen pursuant to the corporation's articles of incorporation.

4. Amendments to the nonprofit corporation's articles of incorporation relating to the governance of the corporation shall not be made without all of the following:

- a. A majority approval of the entire board of directors.
  - b. A majority approval of the five directors appointed to represent the state interests.
  - c. A majority approval by the four directors appointed to represent the private interests.
5. The nonprofit corporation shall:

a. Provide for the management, operation, and marketing of the state-owned portion of the Iowa world trade center. A fee may be negotiated which will be paid by the state for necessary services provided to or for the state-owned portion. The management, operation, and marketing may be done by entering into a service agreement with a management firm. If such an agreement is entered into, the board of directors shall require periodic reports from the firm on the operation, marketing, costs, and revenues of the state-owned portion.

b. Provide for the leasing of space in the state-owned portion to the extent space is available and the leasing of it will fulfill the purposes of the state's involvement in the Iowa world trade center.

c. Use, operate, and market the state-owned portion for the purposes of promoting, developing, maintaining, and expanding export and trade opportunities for agricultural, commercial, and manufactured products and services and other products and services of the state in order to protect and advance the welfare and interests of residents of the state.

6. The nonprofit corporation organized pursuant to the contract ratified by the executive council as the entity that will facilitate the state's involvement in the construction, operation, and marketing of the Iowa world trade center shall not be construed to be a state agency, board, commission, department, or other administrative unit of the state.

Sec. 505. Chapter 18, Code 1985, is amended by adding the following new section:

NEW SECTION. IOWA WORLD TRADE CENTER.

This chapter does not apply to the management, operation, and ownership of the Iowa world trade center.

Sec. 506. Section 422.45, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. The gross receipts of all sales of goods, wares, or merchandise used, or from services rendered, furnished or performed in the construction and equipping of the Iowa world trade center for that portion of the project funded by the state of Iowa as authorized in division V of this Act. This subsection is repealed November 30, 1989.

DIVISION VI

Sec. 601. Section 28.7, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. Establish, oversee, and operate, to the extent practicable, a centrally located marketing center as provided in section 28.101.

Sec. 602. Chapter 28, Code 1985, is amended by adding the following new section as a separate division:

NEW SECTION. 28.101 PRIMARY RESEARCH AND MARKETING CENTER.



1. The commission shall establish as soon as practicable a marketing center within the commission, to be known as "The Primary Research and Marketing Center for Business and International Trade". The purpose of this center is to provide, in a central location, an inventory of the products and services of Iowa businesses. This information is to provide Iowa businesses with a source for locating and contacting potential buyers of their products and services; to aid in opening new markets for Iowa businesses; and to provide a marketing center for new businesses to utilize within the state. The director of the commission is the executive director of the center and shall coordinate activities at the satellite centers. In operating and overseeing the primary research and marketing center for business and international trade, the duties and responsibilities of the commission include the following:

- a. Cataloging the products and services unique to economic development offered by and purchased by businesses located in the state.
- b. Developing a marketing plan to include a listing of target markets within the state, the United States, and international communities for specific products and services already available within the state and products and services which could be made available within the state.
- c. Stimulating research in and development and production of new products by state businesses.
- d. Marketing management which includes keeping abreast of the changing market demands, developing new approaches to tap potential markets, and financing.
- e. Assisting Iowa businesses to enter the international marketplace through the development of export sales strategies and the procurement of export financing, including the use of bartering transactions.
- f. Coordinating the satellite centers.
- g. Training for and coordination of a computer system to be used by this center and its satellite centers. Wherever practicable the commission shall work with educational institutions involved with either the primary research and marketing center for business and international trade or the satellite centers to develop methods and programs that will allow the involvement of students in the development of a computer cataloging system.
- h. Coordinating the delivery of programs and services with other state, local, and federal economic development programs and activities including, but not limited to, those available at institutions of higher learning in this state, the United States department of commerce, and other appropriate agencies.

2. To aid in fulfilling the purpose of the primary research and marketing center for business and international trade, the commission may provide grants to establish satellite centers throughout the state. To facilitate establishment of satellite centers, the state is divided up into fifteen regional economic delivery areas which have the same area boundaries as merged areas, as defined in section 280A.2, in existence on the effective date of this section. Each regional delivery area wishing to receive a grant from the commission to establish a satellite center in its area shall create a regional coordinating council which shall develop a plan for the area to coordinate all federal, state, and local economic development services within the area. After developing this plan, the council may seek a grant for a satellite center by submitting the coordinating plan and an application for a grant to the Iowa development commission. A grant shall not be awarded within the regional economic delivery area without the approval of the regional coordinating plan by the Iowa partnership for economic progress created in division IV of this Act. The Iowa partnership for economic progress may rescind its approval of a regional coordinating plan upon thirty days notice, if the Iowa partnership for

economic progress determines that the stated purpose of the plan is not being carried out. The Iowa partnership for economic progress may then accept an alternative proposal for a regional coordinating plan. If a regional coordinating council is awarded a grant for a satellite center, it shall employ a center director at the satellite center. The center director's duties and responsibilities include the following:

- a. Overseeing the center's computer system and computer data input including the entry of the cataloged products and services of businesses located in the area.
- b. Managing the center.
- c. Communicating with the primary research and marketing center for business and international trade.
- d. Coordinating local marketing activities and efforts of local business.
- e. Coordinating delivery of all federal, state, and local economic development programs and services within the area.
- f. Performing other duties and responsibilities assigned to the center by the primary center.

Each satellite center's duties and responsibilities involve conducting primary and secondary research or assisting local colleges, universities, and businesses in developing primary research programs. Primary and secondary research shall be used for analyzing changes in the marketplace, forecasting changes in consumer wants and needs, and possible modifications of products and services to meet the changes.

A regional coordinating council may enter into an agreement under chapter 28E with other regional coordinating councils for the purpose of fostering tourism within their areas. Regional coordinating councils shall be considered public agencies for purposes of chapter 28E.

The regional coordinating council of each regional economic delivery area shall consist of at least six members who shall be selected from state and local government, business, and education which are representative of the region. Beginning with the fiscal year beginning July 1, 1987, only applications from political subdivisions located within regions with an approved regional coordinating plan will be accepted for moneys from the community betterment account established in the Iowa plan fund for economic development in division III of this Act. A political subdivision shall submit a copy of the application to the regional coordinating council at the same time as the application is submitted to the Iowa development commission.

#### DIVISION VII

##### Sec. 701. NEW SECTION. 261.64 FORGIVABLE LOAN PROGRAM.

There is established a forgivable student loan program to be administered by the college aid commission. An individual is eligible for the reimbursement payments plan under the program if the individual meets all of the following conditions:

1. Is an Iowa resident student enrolled at an accredited private institution as defined in section 261.9, subsection 5 or at an institution under the control of the state board of regents.
2. Has filed an application for the loan with the college aid commission, using the procedures specified in section 261.16.
3. Meets the requirements for a tuition grant.

##### Sec. 702. NEW SECTION. 261.65 FORGIVABLE LOAN ADMINISTRATION.

The college aid commission shall administer the forgivable loan program in the same manner as specified in section 261.15 for the tuition grant program. The maximum loan that a student is eligible to receive is an amount equal to the maximum tuition grant awarded by the commission for the same fiscal year. A student is eligible to receive both a tuition grant and a

forgivable loan. The interest rate for the forgivable loan shall be equal to the interest rate being collected by an eligible lender under the Iowa guaranteed student loan program for the year in which the forgivable loan is made.

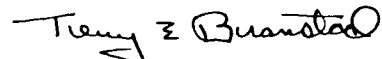
Sec. 703. NEW SECTION. 261.66 INTEREST AND PRINCIPAL PAYMENT.

A student receiving a forgivable loan under section 261.64 shall begin paying the annual cost of interest immediately following graduation on an annual basis for five years. If the student remains an Iowa resident and is employed in a teaching position in an area in which a teaching shortage exists, as determined by the department of public instruction, for five years immediately following graduation, the student is not responsible for payment of the principal amount of the loan and shall not pay interest on the loan. If the commission determines that the student does not meet the criteria for elimination of the principal and interest payments, the commission shall establish by rule a plan for repayment of the principal and interest over a ten-year period. If a student who is required to make the repayment does not make the required payments, the commission shall provide for collecting the payments.

There is created a forgivable loan repayment fund for deposit of payments made by the recipients. Payments made by the recipients of the loans shall be credited to the fund and may be used to make additional loans under the program. Moneys in the fund shall not revert to the general fund of the state at the close of a fiscal year.

Sec. 704. This Act, being deemed of immediate importance, takes effect from and after its publication in The Clinton Herald, a newspaper published in Clinton, Iowa, and in The Altoona Herald-Mitchellville Index, a newspaper published in Altoona, Iowa.

Approved April 18, 1985, except the item which I hereby disapprove and which is designated as Division IV, section 401, section 402, a portion of section 403 beginning on line 5, which is herein bracketed in ink and initialed by me, section 404, section 405, section 406, section 407, section 408, and section 409 which are bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Speaker of the House of Representatives this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

I hereby certify that the foregoing Act and Governor Terry E. Branstad's item veto message were published in The Clinton Herald, Clinton, Iowa on May 1, 1985 and in The Altoona Herald-Mitchellville Index, Altoona, Iowa on May 2, 1985.

MARY JANE ODELL, *Secretary of State*

The Honorable Donald D. Avenson  
Speaker of the House  
State Capitol Building  
L O C A L

Dear Speaker Avenson:

I hereby transmit House File 225, an Act relating to economic development by creating a five-year state lottery, providing penalties, and providing revenues from the state lottery to be used for certain economic development programs and activities; providing for set-asides in state procurement contracts for small minority businesses; providing for the reorganization of state economic development programs and activities with the Iowa Development Commission acting as the interim coordinating agency for economic development until the new Department of Economic Development is created; creating an Iowa partnership for economic progress advisory committee to advise the Iowa Development Commission and the General Assembly on economic development matters and the uses to be made of the revenues from the state lottery; creating an Iowa World Trade Center selection advisory committee to accept proposals from private groups on the construction of the Iowa World Trade Center, to select from those proposals one proposal under which the state will purchase space in the Iowa World Trade Center, and to become part of the nonprofit corporation formed to operate, manage and lease this state-owned space; establishing a primary research and marketing center for business and international trade and satellite centers; creating a forgivable loan program for loans to students who remain residents of Iowa and are employed as a teacher under certain circumstances; making appropriations for economic development programs and activities; and providing an effective date.

House File 225 is approved April 18, 1985, with the following exception which I hereby disapprove.

I am unable to approve Division IV, Section 401, Section 402, a portion of Section 403 beginning on line 5, which I have designated on the bill, Section 404, Section 405, Section 406, Section 407, Section 408, and Section 409.

Division IV of House File 225 requires the Governor to submit to the General Assembly a proposal for the reorganization and coordination of all state economic development programs. I recognize the need to provide a better focus and coordination of our economic development effort in the state and I am hereby approving that portion of this Division which requires the development of a reorganization plan.

However, I believe that the Executive Branch should be given maximum flexibility in the development of such a plan. The above designated portions of Division IV which are item vetoed detail the areas to be included in an economic development reorganization plan and prescribe the process to be used in the development of this plan.

I believe the legislature has an appropriate role to provide advice to the Governor on the reorganization of the Executive Branch and to approve any statutory changes that may be required. However, I believe that the chief executive should be given the flexibility to develop a

plan that best suits the needs of the state. I plan to do just that and to submit that plan to the legislature on December 1 of this year, as required in House File 225.

In addition, this action will give this office the opportunity to review studies that are now being conducted on the organization of economic development efforts in the state. In fact, the Legislative Council has commissioned such a study by Garfield Swartz Associates, Inc. and I plan to review carefully the results of that study as I develop a plan.

The other disapproved portions of Division IV of House File 225 establish an advisory committee on economic development in Iowa. Several sections delineate the make-up of the advisory committee and the specific responsibilities of that committee.

After discussions with the legislative leaders, it is apparent that this advisory committee was designed to act as the Iowa Partnership for Economic Progress which I announced in my State of the State Message.

Over the past several months I have been developing this Partnership, consistent with the recommendations made by the Committee on Iowa's Future Growth. I plan to appoint such a Partnership in the near future and charge that group with developing a long-term strategy for Iowa's economic development. Since the organization of the Iowa Partnership is nearly complete, it is unnecessary for the legislature to statutorily create such a committee.

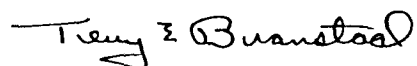
While I generally plan to follow the suggestions of the General Assembly in the composition of the Partnership Committee, I believe that the Executive Branch should have greater flexibility in the appointment and the direction of this committee. The Partnership Committee must forge a broad based consensus among those interested in economic development in Iowa and provide the framework in which we can analyze and implement needed economic development initiatives. The Partnership Committee I will soon appoint will do just that.

In short, I agree with the legislature's desire to provide better focus and reorganization to economic development efforts in the state. I plan to develop a reorganization plan which will accomplish those objectives and submit that plan to the General Assembly. I believe that the Executive Branch requires maximum flexibility to the development of that plan.

I also believe that this office requires flexibility in appointing and directing the Iowa Partnership for Economic Progress in order to develop a consensus and a strategy for economic development issues in the state of Iowa.

For the above reasons, I respectfully disapprove of these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 225 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 34**  
**IOWA ADVANCE FUNDING AUTHORITY**  
*S.F. 79*

**AN ACT** to establish an Iowa advance funding authority, providing for the authority to issue revenue bonds, defining its powers and duties, and providing for the issuance of tax and revenue anticipation notes for certain purposes, and providing an effective date.

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

Section 1. NEW SECTION. 442A.1 SHORT TITLE.

This chapter may be cited as the "Iowa Advance Funding Authority Act."

Sec. 2. NEW SECTION. 442A.2 LEGISLATIVE FINDINGS.

The general assembly finds as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa and the improvement of the financing procedures for Iowa's schools.

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

3. Iowa schools face a serious and increasing problem with cash flow difficulties caused, among other factors, by increasing reliance on state school foundation aid, delays in the payment of state school foundation aid, and the periodic payment of property taxes for school purposes.

4. As a result of their increasing cash flow difficulties, Iowa schools have had to borrow on a short-term basis larger amounts of funds more often, thus increasing their borrowing costs significantly.

5. The short-term borrowing costs of Iowa schools are a direct burden on the taxpayers of the state.

6. It is necessary to create the authority to provide a means for Iowa schools to reduce substantially or eliminate their short-term borrowing costs and thus reduce costs to the taxpayers.

7. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned or granted.

Sec. 3. NEW SECTION. 442A.3 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "School" includes each public school district as defined in chapter 274, area education agency as defined in chapter 273 and merged area school as defined in chapter 280A.

2. "Authority" means the Iowa advance funding authority created by this chapter.

3. "Board" means the governing board of the authority created in section 442A.5.

4. "Notes" means notes, warrants, loan agreements, and all other forms of evidence of indebtedness now or hereafter authorized for schools. "Purchase of notes" includes lending money to schools or any other forms of financing of schools by the authority.

5. "Bonds" means bonds, notes and other obligations issued by the authority pursuant to this chapter.

**Sec. 4. NEW SECTION. 442A.4 IOWA ADVANCE FUNDING AUTHORITY.**

The Iowa advance funding authority is created. It is a public instrumentality and agency of the state exercising public and essential governmental functions, established for the purposes of reducing the cash flow difficulties faced by Iowa schools, improving the financial procedures of Iowa schools, and reducing the short-term borrowing costs of Iowa schools.

**Sec. 5. NEW SECTION. 442A.5 GOVERNING BOARD.**

1. The powers of the authority are vested in and exercised by a board consisting of five members, including the treasurer of state, the superintendent of public instruction, and the state comptroller, and two members appointed by the governor, subject to confirmation by the senate. The state officials may designate representatives to serve on the board for them. As far as possible, the governor shall appoint members who are knowledgeable or experienced in the school systems of this state or finance.

2. The governor shall appoint the members of the authority for terms of six years, beginning and ending as provided in section 69.19. An appointed member of the authority may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing are expressly waived in writing by the member.

3. Three members of the board constitute a quorum.

4. The appointed members of the authority receive forty dollars per diem for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

5. The appointed members of the authority shall give bond as required for public officers in chapter 64.

6. Meetings of the authority shall be held at the call of the chairperson or when a majority of the members so request.

7. The members shall elect a chairperson, vice chairperson and secretary annually, and other officers as they determine necessary.

**Sec. 6. NEW SECTION. 442A.6 GENERAL POWERS.**

The board has all of the general powers needed to carry out its purposes and duties and exercise its specific powers, including but not limited to the power to:

1. Issue its negotiable bonds as provided in this chapter in order to finance its programs.

2. Have perpetual succession as a public authority.

3. Sue and be sued in its own name.

4. Make and execute agreements, contracts, and other instruments, with any public or private entity.

5. Hire and compensate legal counsel, notwithstanding chapter 13.

6. Invest or deposit moneys of the authority, subject to any agreement with bondholders, in any manner determined by the authority, notwithstanding chapters 452 and 453.

7. Procure insurance and other credit enhancement arrangements including but not limited to municipal bond insurance and letters of credit.

8. Fix and collect fees and charges for its services.

9. Accept appropriations, gifts, grants, loans, or other aid from public or private entities.

10. Adopt rules consistent with this chapter, and subject to chapter 17A.

11. The authority is exempt from chapter 18.

**Sec. 7. NEW SECTION. 442A.6A STAFF.**

The executive director and staff of the Iowa housing \*finance authority, pursuant to chapter 220, shall also serve as executive director and staff of the advance funding authority, respectively. The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

\*See ch 252, §26, 56

Sec. 8. NEW SECTION. 442A.7 ADVANCE FUNDING PROGRAM.

1. The authority shall establish a statewide advance funding program for the purchase from schools of notes issued in anticipation of the receipt of moneys for school purposes or for making loans to schools to alleviate cash flow difficulties and to otherwise improve the financial well-being of the schools.

2. The authority may issue its bonds and use the proceeds from the bonds for the purpose of making loans to or purchasing the notes of any school for the use of the various funds of the school for any lawful school purpose excluding debt service. Bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the school, to be derived from the receipt of anticipated funds evidenced by the notes of the school, including a pooling of payments of notes from two or more participating schools. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds.

3. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code.

4. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the authority and are not an indebtedness of this state, and this state is not liable on the bonds. Bonds issued under this chapter shall contain on their face a statement that the state is not liable.

5. The proceeds of bonds issued by the authority and not required for immediate disbursement may be invested in any investment approved by the board and specified in the trust indenture or resolution pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

6. The bonds of the authority shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, as the board prescribes in the resolution authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the board. Chapters 23, 74, 74A and 75 do not apply to their sale or issuance.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by resolution of the board.

7. The bonds of the authority are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

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



**Sec. 9. NEW SECTION. 442A.8 MONEYS OF THE AUTHORITY.**

1. Moneys of the authority, except as otherwise provided in this chapter, shall be paid to the authority and shall be deposited in a bank or other financial institution designated by the authority. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall be secured in the manner determined by the authority. The auditor of state or the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing, and the authority is not required to pay a fee for the examination.

2. The authority may contract with the holders of its bonds as to the custody, collection, security, investment, and payment of moneys of the authority, of moneys held in trust or otherwise for the payment of bonds, and to carry out the contract. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the moneys may be secured in the same manner as moneys of the authority, and banks and trust companies may give security for the deposits.

3. Subject to a contract with bondholders, and to the approval of the state comptroller, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, and the state comptroller, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

**Sec. 10. NEW SECTION. 442A.9 POWERS NOT RESTRICTED — LAW COMPLETE IN ITSELF.**

This chapter is not a restriction or limitation on powers which the authority or a school has under the laws of this state, but is cumulative to any such powers. No proceedings, referendum, notice, or approval is required for the creation of the authority or the issuance of obligations or an instrument as security except as provided in this chapter.

**Sec. 11. NEW SECTION. 442A.10 LIMITATION OF LIABILITY.**

Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties given in this chapter.

**Sec. 12. NEW SECTION. 442A.11 CONFLICTS OF INTEREST.**

1. If a member or employee other than the executive director of the authority has an interest, either direct or indirect, in a contract to which the authority is or is to be a party, the interest shall be disclosed to the authority in writing and shall be set forth in the minutes of a meeting of the authority. The member having the interest shall not participate in action by the board with respect to that contract.

2. This section does not limit the right of a member of the board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party.

3. The executive director shall not have an interest in a bank or other financial institution in which the funds of the authority are deposited or which is acting as trustee or paying agent under a trust indenture to which the authority is a party. The executive director shall not receive, in addition to fixed salary or compensation, any money or valuable thing, either directly or indirectly, or through any substantial interest in any other corporation or business unit, for negotiating, procuring, recommending, or aiding in any loan made by the authority,

nor shall the executive director be pecuniarily interested, either as principal, co-principal, agent, or beneficiary, either directly or indirectly or through any substantial interest in any other corporation or business unit, in any loan.

Sec. 13. NEW SECTION. 442A.12 EXEMPTION FROM COMPETITIVE BID LAWS.

The authority and contracts made by it in carrying out its public and essential governmental functions under sections 442A.6 and 442A.7 are exempt from the laws of the state which provide for competitive bids and hearings in connection with contracts.

Sec. 14. NEW SECTION. 442A.13 ANNUAL REPORT.

1. The authority shall submit to the governor and the general assembly, not later than December 31 of each year, a report setting forth:

- a. Its operations and accomplishments.
- b. Its receipts and expenditures during the previous fiscal year, in accordance with the classifications it establishes for its operating and capital accounts.
- c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.
- d. A schedule of its bonds outstanding at the end of the previous fiscal year, together with a statement of the amounts redeemed and issued during the fiscal year.
- e. A statement of its proposed and projected activities.
- f. Recommendations to the governor and general assembly, as it deems necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period, in attaining the goals.

Sec. 15. NEW SECTION. 442A.14 ASSISTANCE BY STATE OFFICERS, AGENCIES AND DEPARTMENTS.

State officers and state departments and agencies may render services to the authority within their respective functions as requested by the authority.

Sec. 16. NEW SECTION. 442A.15 AUTHORITY OF SCHOOLS.

A school may issue and sell or pledge its notes to the authority or the authority's designated agent or trustee. Schools may enter into contracts and agreements with the authority to effectuate the purposes of this chapter. In acting pursuant to this section, schools are exempt from all laws of the state which provide for competitive bids and hearings in connection with such sales, pledges, contracts and agreements.

Sec. 17. NEW SECTION. 442A.16 LIBERAL INTERPRETATION.

This chapter, being necessary for the welfare of this state and its people, shall be liberally construed to effect its purpose.

Sec. 18. NEW SECTION. 12.25 LEGISLATIVE FINDINGS.

The general assembly finds and declares that because of differences in the timing of the receipt of tax and other revenues and the expenditure of funds by the state, the state has been unable to remain timely on its obligations, including its payments of school aid; the untimely payment of state aid has created a hardship for schools by increasing their costs and hindering their ability to remain timely on their obligations; it would be advantageous to the state to be able to issue notes in anticipation of its tax and other revenues in order to coordinate its cash flow; and pending their use, the proceeds of notes issued in anticipation of tax and other revenues should be invested in order to pay the cost of issuing the notes and as a benefit to the state. It is the purpose of this section and section 12.26 to enable the state to make timely payments of its obligations, including its school aid payments, by securing funds through the issuance of notes in anticipation of the state's tax and other revenues.

Sec. 19. NEW SECTION. 12.26 ISSUANCE OF TAX AND REVENUE ANTICIPATION NOTES.

1. In anticipation of the collection of revenues in and for a fiscal year, the treasurer of state may borrow money, and issue notes for the money, in an amount not exceeding the estimated state revenues for that year. The sums so anticipated are appropriated for the payment of the notes with interest at maturity. The notes may be issued prior to the beginning of a fiscal year, but the notes shall be payable not later than the end of the fiscal year for which they are issued. More than one series of notes may be issued in a fiscal year and the proceeds of notes may be used to retire a prior issue of notes provided that the total outstanding at any one time shall not exceed the limit prescribed in this section. The proceeds from the issuance of notes shall be invested in the same manner as other public funds and shall be used only for the purposes for which the anticipated tax revenues were levied, collected, and appropriated.

2. The principal of and the interest on notes shall be payable solely out of the taxes and revenues of the state for the fiscal year for which the notes are issued. The notes of each issue shall be dated, shall bear interest at the rate or rates which may be variable according to a method approved by the treasurer of state, without regard to any limit contained in chapter 74A or any other law of this state, and shall mature at such time or times not later than the end of the fiscal year, all as may be determined by the treasurer of state. The notes may be made redeemable before maturity, at the option of the treasurer of state, at the price and under the terms and conditions as provided by the treasurer of state. The treasurer of state shall determine the form of the notes and shall fix the denomination of the notes and the place of payment of principal and interest which may be at any bank within or without the state. The notes shall be executed by the manual or facsimile signatures of the treasurer of state and the state comptroller. If any official whose signature or a facsimile of whose signature appears on any notes ceases to hold office before the delivery of the notes, the signature or the facsimile is valid and sufficient for all purposes the same as if the official had remained in office until the delivery. All notes issued under this section have the qualities and incidents of negotiable instruments under the laws of this state and without regard to any other law. The notes shall be issued in registered form. The notes may be sold in the manner, at public or private sale, as the treasurer of state may determine without regard to chapter 75.

3. Notes may be issued under this section without obtaining the consent of any officer or agency of this state, and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by this section. The treasurer of state or the state comptroller is not liable personally on the notes or subject to any personal liability or accountability by reason of the issuance of the notes.

4. As used in this section, "notes" means notes and other obligations, including short term obligations backed by a commercial letter of credit, issued by the treasurer of state pursuant to this section.

Sec. 20. Notwithstanding section 442A.5, subsection 2, the terms of the initial appointed members of the board of the authority appointed pursuant to section 442A.5, subsection 2, shall be as follows: one member shall serve until April 30, 1987 and one member shall serve until April 30, 1991. Members of the board shall commence serving their terms July 1, 1985.

Sec. 21. This Act, being deemed of immediate importance, takes effect from and after its publication in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa, and in the Buena Vista County Journal, a newspaper published in Newell, Iowa.

Approved April 22, 1985

I hereby certify that the foregoing Act was published in the Grinnell Herald-Register, Grinnell, Iowa on April 29, 1985 and in the Buena Vista County Journal, Newell, Iowa on May 2, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 35**  
**OPERATION OF ALL-TERRAIN VEHICLES**  
*S.F. 9*

**AN ACT** relating to the operation of all-terrain vehicles subject to penalties provided by law.

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

Section 1. Section 321.1, subsection 16, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. All-terrain vehicles.

Sec. 2. Section 321.1, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. "All-terrain vehicle" means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road use but not including farm tractors, construction equipment, forestry vehicles or lawn and grounds maintenance vehicles.

Sec. 3. NEW SECTION. 321.234A ALL-TERRAIN VEHICLES.

All-terrain vehicles shall be operated on a highway only between sunrise and sunset and only when the operation on the highway is incidental to the vehicle's use for agricultural purposes. A person operating an all-terrain vehicle on a highway shall have a valid operator's license and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a highway, an all-terrain vehicle shall have a bicycle safety flag which extends not less than five feet above the ground attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches, be day-glow in color, and shall be in lieu of the reflective equipment required by section 321.383.

Approved April 23, 1985

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**CHAPTER 36**  
**OFFICE OF APPELLATE DEFENDER**  
*S.F. 200*

**AN ACT** relating to the office of the appellate defender.

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

Section 1. Section 13B.4, Code 1985, is amended to read as follows:

**13B.4 DUTIES OF APPELLATE DEFENDER.**

The appellate defender shall represent indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction relief when appointed to do so by the district court in

which the judgment or order was issued, and may represent indigents in proceedings instituted pursuant to chapter 908, and shall not engage in the private practice of law. The court may, upon the application of the indigent or the indigent's trial attorney, or on its own motion, appoint the appellate defender to represent the indigent on appeal or on appeal in postconviction proceedings.

Sec. 2. 1981 Iowa Acts, chapter 23, section 8, is repealed.

Sec. 3. Section 2 of this Act, being deemed of immediate importance, takes effect from and after its publication in The New Iowa Bystander, a newspaper published in Des Moines, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Sec. 4. It is the intent of the general assembly of the state of Iowa that the provisions of sections 2 and 3 of this Act take effect prior to the date which 1981 Acts, chapter 23, section 8, would take effect and that from the effective date of this Act, 1981 Acts, chapter 23, section 8, be given no force of law.

Approved April 23, 1985

I hereby certify that the foregoing Act was published in The Sioux City Journal, Sioux City, Iowa on April 29, 1985 and in The New Iowa Bystander, Des Moines, Iowa on May 3, 1985.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 37

### OPERATION OF FIRE VEHICLES

*S.F. 307*

**AN ACT** relating to the operation of fire vehicles.

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

Section 1. Section 321.1, subsection 26, Code 1985, is amended to read as follows:

26. "Authorized emergency vehicle" means vehicles of the fire department, police vehicles, ambulances and emergency vehicles owned by the United States, this state or any subdivision of this state or any municipality ~~therein~~ of this state, and ~~such~~ privately owned ambulances, and fire, rescue or disaster vehicles as are designated or authorized by the director of transportation under section 321.451.

Sec. 2. Section 321.423, subsection 1, paragraph a, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

a. "Fire department" means a paid or volunteer fire protection service provided by a benefited fire district under chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency.

Sec. 3. Section 321.451, Code 1985, is amended to read as follows:

**321.451 EMERGENCY VEHICLES – CERTIFICATE OF DESIGNATION.**

The director is hereby authorized to may designate a privately owned ambulance, fire, rescue or disaster vehicle as an authorized emergency vehicle, and issue a certificate of designation ~~therefor~~ for it, upon written request being made on forms provided by the department and showing necessity for ~~such~~ the designation. ~~Such~~ The certificate of designation shall at all times be carried with the certificate of registration of the vehicle to which it refers and may be revoked by the director upon a showing of abuse ~~thereof~~.

Approved April 23, 1985

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**CHAPTER 38**  
**ADMINISTRATIVE SEARCH WARRANTS**  
*S.F. 318*

**AN ACT** relating to the authority of the court to issue administrative search warrants to government agencies having the statutory authority to conduct inspections.

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

Section 1. NEW SECTION. 808.14 ADMINISTRATIVE WARRANTS.

The courts and other appropriate agencies of the judicial branch of the government of this state may issue administrative search warrants, in accordance with the statutory and common law requirements for the issuance of such warrants, to all governmental agencies or bodies expressly or impliedly provided with statutory or constitutional home rule authority for inspections to the extent necessary for the agency or body to carry out such authority, to be executed or otherwise carried out by an officer or employee of the agency or body.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Sioux City Journal, a newspaper published in Sioux City, Iowa, and in The New Iowa Bystander, a newspaper published in Des Moines, Iowa.

Approved April 23, 1985

I hereby certify that the foregoing Act was published in The Sioux City Journal, Sioux City, Iowa on April 29, 1985 and in The New Iowa Bystander, Des Moines, Iowa on May 3, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 39**  
**APPLICATION FOR SEARCH WARRANTS**  
*S.F. 85*

**AN ACT** relating to the application for and issuance of search warrants.

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

Section 1. Section 808.3, Code 1985, is amended to read as follows:

**808.3 APPLICATION FOR SEARCH WARRANT.**

~~Any~~ **A** person may make application for the issuance of a search warrant by submitting before ~~any~~ a magistrate a written application, supported by the person's oath or affirmation, and ~~setting forth therein which includes~~ facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that ~~such the~~ grounds exist. The application shall describe the person, place, or thing to be searched and the property to be seized with ~~such sufficient~~ specificity so as to enable an independent reasonable person with reasonable effort to ascertain and identify ~~such the~~ person, place, or thing. If the magistrate ~~thereafter~~ issues the search warrant, the magistrate shall endorse on the application the name and address of all persons upon whose sworn testimony the magistrate relied to issue ~~such the~~ warrant together with the abstract of each witness' testimony, or the witness' affidavit. However, if the grounds for issuance are supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given ~~but shall include a determination that the information appears credible either because sworn testimony indicates that the informant has given reliable information on previous occasions or because the informant or the information provided by the informant appears credible for reasons specified by the magistrate.~~ The magistrate may in the magistrate's discretion require that ~~any~~ a witness upon whom the applicant relies for information appear personally and be examined concerning ~~such the~~ information.

Approved April 23, 1985

**CHAPTER 40**  
**RIDING A BICYCLE ON THE HIGHWAY**  
*S.F. 70*

**AN ACT** relating to the rights and duties of a person riding a bicycle on the highway, including a penalty.

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

Section 1. Section 321.1, subsection 3, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. c. "Bicycle" means a device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

Sec. 2. Section 321.234, Code 1985, is amended to read as follows:

321.234 BICYCLES OR ANIMAL-DRAWN VEHICLES.

1. Every A person riding a bicyele or an animal or driving any an animal drawing a vehicle upon a roadway shall be is subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application.

2. A person riding a bicycle on the highway is subject to the provisions of this chapter and has all the rights and duties under this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application.

3. A person propelling a bicycle on the highway shall not ride other than upon or astride a permanent and regular seat attached to the bicycle.

4. A person shall not use a bicycle on the highway to carry more persons at one time than the number of persons for which the bicycle is designed and equipped.

5. This section does not apply to the use of a bicycle in a parade authorized by proper permit from local authorities.

Sec. 3. Section 321.236, subsection 10, Code 1985, is amended to read as follows:

10. Regulating the operation of bicycles and requiring the registration and licensing of the same, including the requirement of a registration fee. However, the regulations shall not conflict with the provisions of section 321.234.

Sec. 4. Section 321.358, subsection 1, Code 1985, is amended to read as follows:

1. On a sidewalk, except a bicycle may stop, stand, or park on a sidewalk if not prohibited by a local jurisdiction.

Sec. 5. Section 805.8, subsection 2, paragraph j, Code 1985, is amended to read as follows:

j. For violations by pedestrians and bicyclists under sections 321.234, subsections 3 and 4, 321.236, subsection 10, 321.325, 321.326, 321.328, 321.331, 321.332, 321.397 and 321.434, the scheduled fine is ten dollars.

Approved April 25, 1985



**CHAPTER 41**

## IMPOSITION OF MANDATORY MINIMUM SENTENCES

*S.F. 213*

**AN ACT** relating to the imposition of mandatory minimum sentences.

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

Section 1. NEW SECTION. 901.10 IMPOSITION OF MANDATORY MINIMUM SENTENCES.

A court sentencing a person for the person's first conviction under section 204.406, 204.413, or 902.7 may, at its discretion, sentence the person to a term less than provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record. However, the state may appeal the discretionary decision on the grounds that the stated mitigating circumstances do not warrant a reduction of the sentence.

Approved April 25, 1985

**CHAPTER 42**

## USED OIL

*S.F. 291*

**AN ACT** relating to the authority of the department of water, air and waste management over used oil.

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

Section 1. Section 455B.412, subsection 5, paragraph d, Code 1985, is amended to read as follows:

d. Requirements for persons supplying or applying oils for the mitigation and cleanup of contamination posing a threat to public health and the environment resulting from oils applied for road oiling, dust control or weed control.

Approved April 25, 1985

**CHAPTER 43****ACKNOWLEDGMENTS OF CONVEYANCES***S.F. 375*

**AN ACT** providing for forms of certain acknowledgments of conveyances of real estate.

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

Section 1. Section 558.39, Code 1985, is amended by adding the following new subsections:

**NEW SUBSECTION. 4.** In the case of partnerships:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, did say that the person is one of the partners of \_\_\_\_\_, a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

**NEW SUBSECTION. 5.** In the case of an individual fiduciary:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that the person, as the fiduciary, executed the instrument as the voluntary act and deed of the person and of the fiduciary.

**NEW SUBSECTION. 6.** In the case of a corporate fiduciary:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that they are the \_\_\_\_\_ and \_\_\_\_\_, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that the instrument was signed (and sealed) on behalf of the corporation by authority of its Board of Directors; that \_\_\_\_\_ and \_\_\_\_\_ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation and of the fiduciary, by it, by them and as the fiduciary voluntarily executed.

**NEW SUBSECTION. 7.** In the case of a limited partnership with corporate general partner:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn did say that the person is the \_\_\_\_\_ of \_\_\_\_\_, the General Partner of \_\_\_\_\_, a \_\_\_\_\_ limited partnership, executing the foregoing instrument, that no seal has been procured by the corporation; that the instrument was signed on behalf of the corporation as General Partner of \_\_\_\_\_, a \_\_\_\_\_ limited partnership, by authority of the corporation's Board of Directors;

and that \_\_\_\_\_ as that officer acknowledged execution of the instrument to be the voluntary act and deed of the corporation and limited partnership by it and by the officer voluntarily executed.

**NEW SUBSECTION. 8.** In the case of a limited partnership with an individual general partner:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that the person is (a) (the) General Partner of \_\_\_\_\_, an Iowa limited partnership, executing the foregoing instrument, that the instrument was signed on behalf of the limited partnership by authority of the limited partnership; and the general partner acknowledged the execution of the instrument to be the voluntary act and deed of the limited partnership, by it and by the general partner voluntarily executed.

**NEW SUBSECTION. 9.** In the case of joint ventures:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that they are the \_\_\_\_\_ and \_\_\_\_\_, respectively, of \_\_\_\_\_, an Iowa corporation, a joint venturer of \_\_\_\_\_, a joint venture, executing the foregoing instrument, that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that the instrument was signed (and sealed) on behalf of the corporation as a joint venturer of \_\_\_\_\_, a joint venture, by authority of its Board of Directors; and that \_\_\_\_\_ and \_\_\_\_\_, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation and joint venture, by the corporation and joint venture and by them voluntarily executed.

**NEW SUBSECTION. 10.** In the case of municipalities:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of \_\_\_\_\_, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Ordinance No. \_\_\_\_\_ passed (the Resolution adopted) by the City Council, under Roll Call No. \_\_\_\_\_ of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that \_\_\_\_\_ and \_\_\_\_\_ acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

**NEW SUBSECTION. 11.** In the case of counties:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor, respectively, of the County of \_\_\_\_\_ Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its Board of Supervisors, as contained in Ordinance

No. \_\_\_\_\_ passed (the Resolution adopted) by the Board of Supervisors, under Roll Call No. \_\_\_\_\_ of the Board of Supervisors on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and \_\_\_\_\_ and \_\_\_\_\_ acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Approved April 25, 1985

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**CHAPTER 44**  
**AIR QUALITY AND FIRE TRUCKS**  
*S.F. 391*

**AN ACT** exempting fire trucks and other fire apparatus from meeting air quality standards.

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

Section 1. Section 455B.131, subsection 2, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** An air contaminant source does not include a fire truck or other fire apparatus operated by an organized fire department.

Approved April 25, 1985

**CHAPTER 45****MOTOR VEHICLE SERVICE CONTRACT INSURANCE***S.F. 392*

**AN ACT** requiring insurance for certain motor vehicle service contracts and providing a remedy.

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

**Section 1. NEW SECTION. 321I.1 DEFINITIONS.**

For the purposes of this chapter:

1. "Motor vehicle service contract" or "service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance.

2. "Motor vehicle service contract provider" or "provider" means a person who issues, makes, provides, sells, or offers to sell a motor vehicle service contract.

3. "Commissioner" means the commissioner of insurance.

4. "Department" means the department of insurance.

5. "Mechanical breakdown insurance" means a policy, contract, or agreement that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, and that is issued by an insurance company authorized to do business in this state.

6. "Motor vehicle service contract reimbursement insurance policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by a motor vehicle service contract provider under the terms of motor vehicle service contracts issued by the provider.

7. "Motor vehicle" means any self-propelled vehicle subject to registration under chapter 321.

8. "Service contract holder" means a person who purchases a motor vehicle service contract.

**Sec. 2. NEW SECTION. 321I.2 INSURANCE REQUIRED.**

A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the provider of the service contract is insured under a motor vehicle service contract reimbursement insurance policy issued by an insurer authorized to do business in this state.

**Sec. 3. NEW SECTION. 321I.3 FILING REQUIREMENTS.**

A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract and the provider's reimbursement insurance policy have been filed with the commissioner.

Sec. 4. NEW SECTION. 321I.4 DISCLOSURE TO PROVIDER.

A motor vehicle service contract reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the reimbursement insurance policy conspicuously states that the issuer of the policy shall pay on behalf of the provider all sums which the provider is legally obligated to pay for failure to perform according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

Sec. 5. NEW SECTION. 321I.5 DISCLOSURE TO SERVICE CONTRACT HOLDERS.

A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the service contract reimbursement policy, and unless the contract conspicuously states the name and address of the issuer of the reimbursement policy.

Sec. 6. NEW SECTION. 321I.6 COMMISSIONER MAY PROHIBIT CERTAIN SALES – INJUNCTION.

The commissioner shall, upon giving a ten-day notice to a motor vehicle service contract provider, issue an order instructing the provider to cease and desist from selling or offering for sale motor vehicle service contracts if the commissioner determines that the provider has failed to comply with a provision of this chapter. Upon the failure of a motor vehicle service contract provider to obey a cease and desist order issued by the commissioner, the commissioner may give notice in writing of the failure to the attorney general, who shall immediately commence an action against the provider to enjoin the provider from selling or offering for sale motor vehicle service contracts until the provider complies with the provisions of this chapter and the district court may issue the injunction.

Sec. 7. NEW SECTION. 321I.7 RULES.

The commissioner may adopt rules as provided in chapter 17A to administer and enforce the provisions of this chapter and to establish minimum standards for disclosure of motor vehicle service contract coverage limitations and exclusions.

Sec. 8. NEW SECTION. 321I.8 EXEMPT.

This chapter does not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or importer.

Approved April 25, 1985

**CHAPTER 46****TIME OF VOLUNTEER FIRE FIGHTER'S EMPLOYMENT***S.F. 168*

**AN ACT** relating to the time period when volunteer fire fighters are acting in the course of employment for purposes of workers' compensation benefits.

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

Section 1. Section 85.61, subsection 6, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Personal injuries sustained by a volunteer fire fighter arise in the course of employment if the injuries are sustained at any time from the time the volunteer fire fighter is summoned to duty as a volunteer fire fighter until the time the volunteer fire fighter is discharged from duty by the chief of the volunteer fire department or the chief's designee.

Approved April 25, 1985

**CHAPTER 47****RESALE RIGHTS OF MOTORCYCLE DEALERS***S.F. 183*

**AN ACT** to provide resale rights to a holder of a motorcycle or motorcycle parts franchise upon termination of the franchise.

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

Section 1. Section 322D.1, subsection 1, Code 1985, is amended to read as follows:

1. "Attachments" means a machine or part of a machine designed to be used on and in conjunction with a farm implement or a motorcycle.

Sec. 2. Section 322D.1, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 5A.** "Motorcycle" has the same meaning as defined in section 321.1, subsection 3, paragraph "a".

Sec. 3. Section 322D.1, subsection 3, paragraphs b and e, Code 1985, are amended to read as follows:

b. The franchisee is granted the right to offer and sell farm implements or motorcycles, or parts manufactured or distributed by the franchiser.

e. The operation of the franchisee's business is substantially reliant on the franchiser for the continued supply of farm implements, motorcycles, parts, and or attachments.

Sec. 4. Section 322D.1, subsections 4 and 5, Code 1985, are amended to read as follows:

4. "Franchisee" means a person who receives farm implements or motorcycles, or parts for farm implements or motorcycles from the franchiser under a franchise and who offers and sells the farm implements or motorcycles or their parts to the general public.

5. "Franchiser" means a person who manufactures, wholesales, or distributes farm implements or motorcycles or parts for farm implements or motorcycles and who enters into a franchise.

Sec. 5. Section 322D.2, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1985, are amended to read as follows:

1. A franchisee who enters into a written franchise with a franchiser to maintain a stock of parts, attachments, or farm implements, or motorcycles has the following rights to payment, at the option of the franchisee, if the franchise is terminated:

a. One hundred percent of the net cost of new unused complete farm implements or motorcycles, including attachments, which were purchased from the franchiser, and in addition, transportation charges on the farm implements or motorcycles which have been paid by the franchisee.

Sec. 6. Section 322D.2, subsections 2 and 3, Code 1985, are amended to read as follows:

2. Upon receipt of the payments due under subsection 1, the franchiser is entitled to possession of and title to the farm implements, motorcycles, attachments, or parts.

3. The cost of farm implements, motorcycles, or attachments and the price of repair parts shall be determined by reference to the franchiser's price list or catalog in effect at the time of the franchise termination.

Sec. 7. Section 322D.2, subsection 4, Code 1985, is amended by striking the subsection.

Sec. 8. Section 322D.3, subsections 7 and 9, Code 1985, are amended to read as follows:

7. A farm implement or motorcycle which is not in new, unused, undamaged, or complete condition.

9. A farm implement or motorcycle which was purchased twenty-four months or more prior to the termination of the franchise.

Sec. 9. Section 322D.4, Code 1985, is amended to read as follows:

#### 322D.4 FRANCHISER FAILURE TO COMPLY — CIVIL PENALTY.

In the event that any franchiser fails to make payment to the franchisee or the franchisee's heir or heirs as required by this chapter within sixty days after the inventory has been received by the franchiser, the franchiser shall be civilly liable for one hundred percent of the current net price of farm implements the inventory; transportation charges which have been paid by the franchisee; eighty-five percent of the current net price of repair parts; five percent of the current net price of repair parts to cover handling, packing and loading, if applicable; and attorney fees incurred by the franchisee or the franchisee's heir or heirs.

Sec. 10. The rights under section 322D.2, subsection 1, apply to farm implement franchise agreements in effect on July 1, 1984, which have no expiration date and are continuing agreements, and to those entered into or renewed after July 1, 1984, but only to farm implements and farm implement attachments and parts purchased after July 1, 1984. The rights under section 322D.2, subsection 1, apply to motorcycle franchise agreements in effect on July 1, 1985, which have no expiration date and are continuing agreements, and to those entered into or renewed after July 1, 1985, but only to motorcycles and motorcycle attachments and parts purchased after July 1, 1985.

Approved April 25, 1985



**CHAPTER 48**  
**MOVEMENT OF BEE COLONIES**  
*S.F. 342*

**AN ACT** relating to bees by making certain acts unlawful, and providing penalties.

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

Section 1. Section 160.14, Code 1985, is amended to read as follows:

**160.14 SALE OR DISPOSITION OF DISEASED BEES PENALTIES – INJUNCTIONS.**

1. Anyone A person who knowingly sells, barter, or gives away, or moves or allows to be moved, a diseased colony or colonies of bees, without the consent of the state apiarist, or exposes any infected honey or infected appliances to the bees, or who willfully fails or neglects to give proper treatment to diseased colonies, or who interferes with the state apiarist or the apiarist's assistants in the performance of their official duties or who refuses to permit the examination of bees or their destruction as provided in this Act chapter or violates any other another provision of the Act shall be deemed this chapter, except as provided in subsection 2, is guilty of a simple misdemeanor, and upon conviction thereof before any judicial magistrate of the county shall be fined not exceeding the sum of fifty dollars or imprisoned in the county jail not exceeding thirty days.

2. A person who knowingly moves or causes to be moved into this state a colony of bees without a valid certificate of inspection from the state of origin or a permit to enter issued by the state apiarist pursuant to section 160.5, is guilty of a serious misdemeanor.

3. The attorney general or persons designated by the attorney general may institute suits on behalf of the state apiarist to obtain injunctive relief to restrain and prevent violations of this chapter.

Approved April 25, 1985

**CHAPTER 49**  
**TEACHERS HIRED ONLY TO COACH**  
*S.F. 414*

**AN ACT** relating to rights of a person possessing a teaching certificate with a coaching endorsement and not issued a teaching contract who is employed by a school district.

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

Section 1. Section 279.19B, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The board of directors of a school district may employ for head coach of other interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the department of public instruction. An individual who has been issued a coaching authorization or who possesses a teaching certificate with a coaching endorsement but is not issued a teaching contract under section 279.13 and who is employed by the board of directors of a school district serves at the pleasure of the board of directors and is not subject to sections 279.13 through 279.19, and 279.27. Chapter 272A and subsection 1 of section 279.19A apply to coaching authorizations.

Approved April 25, 1985

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**CHAPTER 50**  
**VETERAN PREFERENCE**  
*S.F. 266*

**AN ACT** relating to veteran preference in public employment and providing an effective date.

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

Section 1. Section 70.1, Code 1985, is amended to read as follows:  
70.1 APPOINTMENTS AND PROMOTIONS.

1. In every public department and upon all public works in the state, and of the counties, cities, and school corporations thereof, honorably discharged persons from the military or naval forces of the United States in any war in which the United States ~~was or is now~~ has been engaged, including the Philippine Insurrection, China Relief Expedition, and the Korean Conflict at any time between June 25, 1950 and January 31, 1955, both dates inclusive, and the

Vietnam Conflict beginning August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities May 7, 1975, both dates inclusive, who are citizens and residents of this state shall be are entitled to preference in appointment, and employment, and promotion over other applicants of no greater qualifications. The preference in appointment and employment for employees of cities under a municipal civil service is the same as provided in section 400.10. For the purposes of this section service in World War II shall mean means service in the armed forces of the United States between December 7, 1941, and December 31, 1946, both dates inclusive.

2. In all jobs of the state and its political subdivisions, an application form shall be completed. The application form shall contain an inquiry into the applicant's military service during the wars or armed conflicts as specified in subsection 1.

3. In all jobs of political subdivisions of the state which are to be filled by competitive examination or by appointment, public notice of the application deadline to fill a job shall be posted at least ten days before the deadline in the same manner as notices of meetings are posted under section 21.4.

4. For jobs in political subdivisions of the state that are filled through a point-rated qualifying examination, the preference afforded to veterans shall be equivalent to that provided for municipal civil service systems in section 400.10.

Sec. 2. Section 400.10, unnumbered paragraph 1, Code 1985, is amended to read as follows:

In all examinations and appointments under the provisions of this chapter, other than promotions and appointments of chief of the police department and chief of the fire department, honorably discharged individuals veterans from the military or naval forces of the United States in any war in which the United States was or is now has been engaged, including the Philippine Insurrection, China Relief Expedition and the Korean Conflict at any time between June 25, 1950 and January 31, 1955, both dates inclusive, and the Vietnam Conflict beginning August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities May 7, 1975, both dates inclusive, and who are citizens and residents of this state, shall be given the preference, if otherwise qualified have five points added to the veteran's grade or score attained in qualifying examinations for appointment to positions and five additional points added to the grade or score if the veteran has a service-connected disability or is receiving compensation, disability benefits or pension under laws administered by the veterans administration. An honorably discharged veteran who has been awarded the Purple Heart for disabilities incurred in action shall be considered to have a service-connected disability. However, the points shall be given only upon passing the exam and shall not be the determining factor in passing.

Approved April 25, 1985

**CHAPTER 51**  
**TERM OF LABOR COMMISSIONER**  
*H.F. 338*

**AN ACT** relating to the term of office of the labor commissioner.

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

Section 1. Section 91.2, Code 1985, is amended to read as follows:  
91.2 APPOINTMENT.

The governor shall appoint in ~~each~~ every second odd-numbered year, subject to confirmation by the senate, a labor commissioner who shall serve for a period of ~~two~~ four years beginning and ending as provided in section 69.19.

Sec. 2. Section 1 of this Act takes effect May 1, 1987.

Approved April 29, 1985

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**CHAPTER 52**  
**PAYMENT OF COURT COSTS**  
*H.F. 419*

**AN ACT** relating to the payment of court costs and providing a penalty.

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

Section 1. Section 909.5, Code 1985, is amended to read as follows:  
909.5 NONPAYMENT OF FINES AND COURT COSTS – CONTEMPT.

Any A person who is able to pay a fine, court-imposed court costs for a criminal proceeding, or both, or an installment of a the fine or the court imposed court costs, or both, and who refuses to do so, or who fails to make a good faith effort to pay the person's fine, court costs, or both, or any installment thereof, shall be held in contempt of court.

Approved April 29, 1985

**CHAPTER 53**  
**FEDERAL DISASTER ASSISTANCE**  
*H.F. 553*

**AN ACT** relating to federal disaster assistance to state and local governments and providing an effective date.

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

Section 1. Section 29C.6, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 17.** When the president of the United States has declared a major disaster to exist in the state and upon the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of local and state government adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, accept a grant by the federal government to fund such financial assistance, subject to terms and conditions imposed upon the grant, and enter into an agreement with the federal government pledging the state to participate in the funding of the financial assistance authorized to local government in an amount not to exceed ten percent of the total eligible expenses, with local government providing fifteen percent. If financial assistance is granted by the federal government for state disaster-related expenses or serious needs, the state shall participate in the funding of the financial assistance authorized in an amount not to exceed twenty-five percent of the total eligible expenses. If state funds are not otherwise available to the governor, an advance of the state share may be accepted from the federal government to be repaid when the state is able to do so.

Sec. 2. Section 29C.20, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** If the president of the United States, at the request of the governor, has declared a major disaster to exist in this state, the executive council may make financial grants to meet disaster-related necessary expenses or serious needs of local governments adversely affected by the major disaster if those expenses or needs cannot otherwise be met from other means of assistance. The amount of the grant shall not exceed ten percent of the total eligible expenses and is conditional upon the federal government providing at least seventy-five percent of the eligible expenses.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in *The New Iowa Bystander*, a newspaper published in Des Moines, Iowa, and in *The Grundy Register*, a newspaper published in Grundy Center, Iowa.

Approved April 29, 1985

I hereby certify that the foregoing Act was published in *The Grundy Register*, Grundy Center, Iowa on May 2, 1985 and in *The New Iowa Bystander*, Des Moines, Iowa on May 10, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 54**  
**JOB SERVICE ATTORNEY FEES**  
*S.F. 63*

**AN ACT** relating to the approval of attorney fees by the department of job service.

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

Section 1. Section 96.15, subsection 2, Code 1985, is amended to read as follows:

2. **LIMITATION OF FEES.** ~~No An individual claiming benefits shall not be charged fees of any kind in any proceeding under this chapter by the department or its representatives or by any a court or any an officer thereof of the court. Any An individual claiming benefits in any a proceeding before the department, or an appeal tribunal, or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the department. Any A person who violates any provisions a provision of this subsection shall, for each such offense, be is guilty of a serious misdemeanor for each violation.~~

Approved April 29, 1985

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**CHAPTER 55**  
**STATE ENERGY CONSERVATION LEASES**  
*S.F. 303*

**AN ACT** relating to the lease by state agencies of real and personal properties and facilities for use as or in connection with any energy conservation measure.

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

Section 1. **NEW SECTION. 19.34 ENERGY CONSERVATION LEASE-PURCHASE.**

1. As used in this section:

a. "Energy conservation measure" means installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, which may contain integral control and measurement devices.

b. "State agency" means a board, department, commission or authority of or acting on behalf of the state having the power to enter into contracts with or without the approval of the executive council to acquire property in its own name or in the name of the state. "State

agency" does not mean the general assembly, the courts, the governor or a political subdivision of the state.

2. a. A state agency may, with the approval of the executive council, lease as lessee real and personal properties and facilities for use as or in connection with any energy conservation measure for which it may so acquire real and personal properties and facilities, upon the terms, conditions and considerations the official or officials having the authority with or without the approval of the executive council to commit the state agency to acquire real and personal property and facilities deem in the best interests of the state agency. A lease may include provisions for ultimate ownership by the state or by the state agency and may obligate the state agency to pay costs of maintenance, operation, insurance and taxes. The state agency shall pay the rentals and the additional costs from the annual appropriations for the state agency by the general assembly or from other funds legally available. The lessor of the properties or facilities may retain a security interest in them until title passes to the state or state agency. The security interest may be assigned or pledged by the lessor. In connection with the lease, the state agency may contract for a letter of credit, insurance or other security enhancement obligation with respect to its rental and other obligations and pay the cost from annual appropriations for such state agency by the general assembly or from other funds legally available. The security enhancement arrangement may contain customary terms and provisions, including reimbursement and acceleration if appropriate. This section is a complete and independent authorization and procedure for a state agency, with the approval of the executive council, to enter into a lease and related security enhancement arrangements and this section is not a qualification of any other powers which a state agency may possess, including those under chapter 262, and the authorization and powers granted under this section are not subject to the terms or requirements of any other provision of the Code.

b. Before a state agency seeks approval of the executive council for leasing real or personal properties or facilities for use as or in connection with any energy conservation measure, the state agency shall have a comprehensive engineering analysis done on a building in which it seeks to improve the energy efficiency by an engineering firm approved by the energy policy council through a competitive selection process and the engineering firm is subject to approval of the executive council. Provisions of this section shall only apply to energy conservation measures identified in the comprehensive engineering analysis.

c. Before the executive council gives its approval for a state agency to lease real and personal properties or facilities for use as or in connection with any energy conservation measure, the executive council shall in conjunction with the energy policy council and after review of the engineering analysis submitted by the state agency make a determination that the properties or facilities will result in energy cost savings to the state in an amount that results in the state recovering the cost of the properties or facilities within six years after the initial acquisition of the properties or facilities.

Sec. 2. This Act, being deemed of immediate importance, shall take effect from and after its publication in the Ames Daily Tribune, a newspaper published in Ames, Iowa, and in the Waterloo Courier Cedar Falls Record, a newspaper published in Waterloo, Iowa.

Approved April 29, 1985

I hereby certify that the foregoing Act was published in the Ames Daily Tribune, Ames, Iowa on May 3, 1985 and in the Waterloo Courier Cedar Falls Record, Waterloo, Iowa, on May 6, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 56**  
**PRIVATE INVESTIGATIVE AND SECURITY AGENCIES**  
*S.F. 456*

**AN ACT** relating to the licensure of private investigative and security agencies and providing an effective date.

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

Section 1. Section 80A.4, subsection 2, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

2. If the applicant is a corporation, the requirements of subsection 1 apply to the president and to each officer, director or employee who is actively involved in the licensed business in Iowa. If the applicant is a partnership or association, the requirements of subsection 1 apply to each partner or association member.

Sec. 2. Section 80A.7, unnumbered paragraph 3, Code 1985, is amended to read as follows:

A county sheriff may issue temporary identification cards valid for fourteen days to a person employing individuals employed by an agency licensed as a private security business or private investigation business on a temporary basis ~~for private security business~~ in the county. The fee for each card is three dollars. The form of the temporary identification cards shall be approved by the commissioner.

Sec. 3. Section 80A.10, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**80A.10 LICENSEE'S BOND.**

A license shall not be issued unless the applicant files with the department a surety bond in an amount of five thousand dollars in the case of an agency licensed to conduct only a private security business or a private investigation business, or in the amount of ten thousand dollars in the case of an agency licensed to conduct both. The bond shall be issued by a surety company authorized to do business in this state and shall be conditioned on the faithful, lawful, and honest conduct of the applicant and those employed by the applicant in carrying on the business licensed. The bond shall provide that a person injured by a breach of the conditions of the bond may bring an action on the bond to recover legal damages suffered by reason of the breach. However, the aggregate liability of the surety for all damages shall not exceed the amount of the bond. Bonds issued and filed with the department shall remain in force and effect until the surety has terminated future liability by a written thirty days' notice to the department.

Sec. 4. Section 80A.12, subsection 7, Code 1985, is amended by striking the subsection.

Sec. 5. NEW SECTION. **80A.10A LICENSEE'S PROOF OF FINANCIAL RESPONSIBILITY.**

A license shall not be issued unless the applicant furnishes proof acceptable to the commissioner of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings occurring subsequent to the effective date of the proof, arising out of the ownership and operation of a private security business or a private investigation business.



Sec. 6. NEW SECTION. 80A.17 CONFIDENTIAL RECORDS.

1. All complaint files, investigation files, other investigation reports, and other investigative information in the possession of the department or its employees or agents which relate to licensee discipline are privileged and confidential except that they are subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are admissible in evidence in a judicial or administrative proceeding other than a proceeding involving licensee discipline. In addition, investigative information in the possession of the department's employees or agents which relates to licensee discipline may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of the department indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. A final written decision and finding of fact of the department in a disciplinary proceeding is a public record.

Pursuant to section 17A.19, subsection 6, the department, upon an appeal by the licensee of the decision by the department shall transmit the entire record of the contested case to the reviewing court.

Notwithstanding section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall order withheld the identity of the individual whose privilege was waived.

2. Lists of employees of a licensed agency and their personal histories shall be held as confidential. However, the lists of the names of the licensed agencies, their owners, corporate officers and directors shall be held as public records. The commissioner may confirm that a specific individual is an employee of a licensed agency upon request and may make lists of licensed agencies' employees available to law enforcement agencies.

Sec. 7. Section 80A.13, subsections 1 and 2, Code 1985, are amended to read as follows:

1. File with the sheriff of the county in which the campus is located evidence that the individual has successfully completed an approved firearms training program under section 724.9. This requirement does not apply to armored car personnel.

2. Possess a permit to carry weapons issued by the sheriff of the county in which the campus is located under sections 724.6 through 724.11. This requirement does not apply to armored car personnel.

Sec. 8. Notwithstanding sections 3 and 4 of this Act, the bonding, insurance and proof of financial responsibility requirements of this Act shall not be in effect for those agencies holding licenses on the effective date of this Act for sixty days following enactment in order to allow licensees an adequate grace period to obtain proper coverage and furnish proof acceptable to the commissioner.

Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in The Holstein Advance, a newspaper published in Holstein, Iowa, and in the Estherville Daily News, a newspaper published in Estherville, Iowa.

Approved April 29, 1985

I hereby certify that the foregoing Act was published in The Holstein Advance, Holstein, Iowa on May 2, 1985 and in the Estherville Daily News, Estherville, Iowa on May 8, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 57****FOREST CITY, LAKE MILLS AND OSAGE LEGALIZING ACT***S.F. 490*

**AN ACT** to legalize and validate the proceedings and declaring each and all of the acts taken by the city of Forest City, city of Osage, city of Lake Mills, all in Iowa, in entering into, ratifying and confirming an agreement with Western Wisconsin Municipal Power Group dated and a certain transmission agreement between Western Wisconsin Municipal Power Group and Dairyland Power Cooperative to have been legally taken.

WHEREAS, the cities of Forest City, Osage and Lake Mills, all in Iowa, did enter into an agreement with Western Wisconsin Municipal Power Group (WWMPG), which agreement relates to and forms a part of a certain shared transmission agreement with Dairyland Power Cooperative (Dairyland) and provides for WWMPG to act as agent for the cities of Forest City, Osage and Lake Mills; and

WHEREAS, WWMPG has, on behalf of its municipal members including the cities of Forest City, Osage and Lake Mills pursuant to agreement entered into a shared transmission agreement, with Dairyland, a Federated Cooperative Association organized and operating under the laws of Wisconsin and pursuant to regulation by the Rural Electrification Administration (REA), for the purpose of obtaining electric energy for sale and distribution to the municipal members of Dairyland and including the cities of Forest City, Osage and Lake Mills, all in Iowa; and

WHEREAS, Forest City, Osage and Lake Mills have taken action pursuant to chapters 390 and 23 of the Code to ratify and confirm the agreement between WWMPG and Forest City, Osage and Lake Mills and the shared transmission agreement between WWMPG and Dairyland as a joint agreement, pursuant to chapter 390 of the Code; and

WHEREAS, the aforementioned documents together now purport to form a joint agreement pursuant to chapter 390 of the Code; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the proceedings and the acts taken by the cities of Forest City, Osage and Lake Mills in entering into, ratifying and confirming said joint agreement and it is deemed advisable and necessary to put such doubts and all others that might arise concerning same forever at rest; NOW THEREFORE,

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

Section 1. That all proceedings heretofore taken in connection with and all acts heretofore taken by the cities of Forest City, Osage and Lake Mills, including entering into said agreement between the cities of Forest City, Osage and Lake Mills and WWMPG and said shared transmission agreement between WWMPG and Dairyland Power Cooperative be and the same are hereby legalized, validated and confirmed, and said documents together are hereby declared to form a valid joint agreement pursuant to chapter 390 of the Code. Further that the acts heretofore taken by said cities in connection with said agreement between the cities of Forest City, Osage and Lake Mills and WWMPG and said shared transmission agreement

between WWMPG and Dairyland Power Cooperative are hereby legalized, validated and confirmed.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Forest City Summit, a newspaper published in Forest City, Iowa, and in the Lake Mills Graphic, a newspaper published in Lake Mills, Iowa, without expense to the State.

Approved April 29, 1985

I hereby certify that the foregoing Act was published in The Forest City Summit, Forest City, Iowa on May 2, 1985 and in the Lake Mills Graphic, Lake Mills, Iowa on May 8, 1985 without expense to the State of Iowa.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 58

### SANITARY DISPOSAL PROJECT MONITORING WELLS

*H.F. 469*

**AN ACT** to require a sufficient number of wells at each sanitary disposal project to adequately monitor ground water quality.

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

Section 1. Section 455B.304, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The commission shall establish rules for the proper administration of ~~the provisions of~~ this part 1 of division IV which shall reflect and accommodate as far as is reasonably possible ~~those the current and generally accepted methods and techniques for treatment and disposition of solid waste which will serve the purposes of part 1 of this division, and~~ which shall take into consideration the factors, including others which it ~~may deem~~ deems proper, such as existing physical conditions, topography, soils and geology, climate, transportation, and land use, the rules including and which shall include but are not limited to rules relating to the establishment and location of sanitary disposal projects, sanitary practices, inspection of sanitary disposal projects, collection of solid waste, disposal of solid waste, pollution controls, the issuance of permits, approved methods of private disposition of solid waste, the general operation and maintenance of sanitary disposal projects, and the implementation of part 1 of this division. The rules shall require that each sanitary disposal project has a sufficient number of water wells to adequately monitor the quality of ground water adjacent to the sanitary disposal project site. Prior to issuance of rules or amendments ~~thereto~~ to rules, the commission shall hold at least one public hearing on the proposed rules or amendments, and shall give notice of the hearing at least thirty days in advance by publishing notice in a newspaper of general circulation in the state.

Approved April 30, 1985

**CHAPTER 59****SENTENCING OF JUVENILES TO COMMUNITY SERVICE***H.F. 124*

**AN ACT** permitting the sentencing of juveniles at least twelve years old to community service work programs.

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

Section 1. Section 92.17, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 6.** A juvenile court from ordering a child at least twelve years old to complete a work assignment of value to the state or to the public or to the victim of a crime committed by the child, in accordance with section 232.52, subsection 2, paragraph "a".

Approved April 30, 1985

**CHAPTER 60****PUBLIC EMPLOYEES PROTECTED FROM REPRISAL***H.F. 173*

**AN ACT** to protect public employees from personnel actions as reprisals for providing information to legislators or public officials or disclosing waste, mismanagement, or violations of law.

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

Section 1. **NEW SECTION. 20A.1. REPRISALS PROHIBITED.**

A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in employment by a political subdivision of this state as a reprisal for a disclosure of information by that employee to a member of the general assembly, or an official of that political subdivision or a state official or a disclosure of information which the employee reasonably believes evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This section does not apply if the disclosure of that information is prohibited by statute.

Approved April 30, 1985

**CHAPTER 61****PAYMENT BY CHECK OF MOTOR VEHICLE REGISTRATION***H.F. 418*

**AN ACT** requiring the state department of transportation to accept payment by check of proportional registration fees.

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

Section 1. **NEW SECTION. 326.10A PAYMENT BY CHECK.**

The department shall accept payment of fees under this chapter by personal or corporate check. The fee shall be deemed to have been paid upon receipt of the check. However the department shall not issue plates, stickers or other identification of vehicles subject to proportional registration until sufficient time has elapsed to ensure that payment of the check has cleared the bank upon which it is drawn.

Approved April 30, 1985

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**CHAPTER 62****LIABILITIES OF MENTAL HEALTH ADVOCATES***H.F. 558*

**AN ACT** relating to the liabilities of mental health advocates.

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

Section 1. Section 229.19, unnumbered paragraph 3, Code 1985, is amended to read as follows:

The court shall from time to time prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid on order of the court by the county in which the court is located. The advocate is an employee of the state for purposes of chapter 25A.

Approved April 30, 1985

**CHAPTER 63****INFORMATION ON PROBATION AND PAROLE TRANSFER REQUESTS***H.F. 584*

**AN ACT** relating to information contained on interstate probation and parole compact transfer requests.

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

**Section 1. NEW SECTION. 247.41 INFORMATION FOR TRANSFER.**

Prior to this state accepting a transfer request pursuant to section 247.40, the person designated pursuant to section 247.40, subsection 5, or that person's designee, shall first determine that sufficient information has been provided to permit the effective establishment of a case plan for the client. For purposes of this section, sufficient information may include, but is not limited to, a copy of the client's:

1. Presentence investigation.
2. Drug and alcohol evaluations.
3. Psychiatric and psychological evaluations.
4. Prior criminal history.

If such information exists, but has not been provided, the person designated pursuant to section 247.40, or that person's designee, may either refuse to accept the transfer request until the information has been provided or delay the acceptance until this state has obtained the information.

Approved April 30, 1985

**CHAPTER 64**  
**PROCEDURES FOR PROPERTY HELD BY POLICE**  
*H.F. 664*

**AN ACT** relating to procedures for determining ownership and disposition of certain seized or abandoned vehicles, component parts and personal property in the custody of a peace officer or police authority.

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

Section 1. Section 321.85, Code 1985, is amended to read as follows:  
321.85 STOLEN VEHICLES OR COMPONENT PARTS.

~~Whenever any~~ When a vehicle or component part is seized under section 321.84 or ~~whenever any vehicle or component part~~ is stolen or embezzled, and is not claimed by the owner before the date on which the person charged with its stealing or embezzling is convicted, ~~then~~ the officer having the vehicle or component part in the officer's custody ~~must~~ shall, on that date by certified mail, notify the department that the officer has ~~such a~~ the vehicle or component part in the officer's possession, giving a full and complete description of it, including all vehicle identification numbers and component part numbers. If there is a dispute regarding a claim for the vehicle or component part, the agency holding the vehicle or component part shall conduct an evidentiary hearing to adjudicate the claim.

Sec. 2. Section 321.89, subsection 3, paragraph a, Code 1985, is amended to read as follows:

a. A police authority which takes into custody an abandoned vehicle shall notify, within twenty days, by certified mail, the last known registered owner of the vehicle, ~~and~~ all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known ~~address~~ addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where ~~#~~ the vehicle is being held, and inform the owner and any lienholders persons receiving the notice of their right to reclaim the vehicle and personal property within twenty-one days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this subsection. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, claim and interest in the vehicle and that ~~such~~ failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the owner and lienholders persons receiving the notice do not ask for a hearing or exercise their right to reclaim such the vehicle within the twenty-one-day reclaiming period,

such the owner and lienholders shall no longer have any right, title, claim, or interest in or to such the vehicle. No court in any case in law or equity shall recognize any right, title, claim, or interest of any such the owner and lienholders after the expiration of the twenty-one-day reclaiming period.

Approved April 30, 1985

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**CHAPTER 65**  
LEGISLATIVE AGENCIES  
*S.F. 409*

**AN ACT** relating to legislative agencies under the direction and control of the legislative council by creating a computer support bureau, by providing budgeting procedures for statutory legislative agencies, making standing appropriations and making the Act effective upon publication.

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

Section 1. Section 2.12, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** There is appropriated out of any funds in the state treasury not otherwise appropriated such sums as may be necessary for the fiscal year budgets of the legislative service bureau, the legislative fiscal bureau, the citizens' aide office and the computer support bureau for salaries, support, maintenance, and miscellaneous purposes to carry out their statutory responsibilities. The legislative service bureau, the legislative fiscal bureau, the citizens' aide office and the computer support bureau shall submit their proposed budgets to the legislative council not later than September 1 of each year. The legislative council shall review and approve the proposed budgets not later than December 1 of each year. The budget approved by the legislative council for each of its statutory legislative agencies shall be transmitted by the legislative council to the state comptroller on or before December 1 of each year for the fiscal year beginning July 1 of the following year. The state comptroller shall submit the approved budgets received from the legislative council to the governor for inclusion in the governor's proposed budget for the succeeding fiscal year. The approved budgets shall also be submitted to the chairpersons of the committees on appropriations. The committees on appropriations may allocate from the funds appropriated by this section the funds contained in the approved budgets, or such other amounts as specified, pursuant to a concurrent resolution to be approved by both houses of the general assembly. The state comptroller shall issue warrants for salaries, support, maintenance, and miscellaneous purposes upon requisition by the administrative head of each statutory legislative agency. If the legislative council elects to change the approved budget for a legislative agency prior to July 1, the legislative council shall transmit the amount of the budget revision to the state comptroller prior to July 1 of the fiscal year, however, if the general assembly approved the budget it cannot be changed except pursuant to a concurrent resolution approved by the general assembly.



Sec. 2. Section 2.42, subsection 14, Code 1985, is amended to read as follows:

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

Sec. 3. Section 2.42, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 17. To establish policies for the operation of the computer support bureau.

NEW SUBSECTION. 18. To appoint the director of the computer support bureau for a term of office set by the council.

Sec. 4. Section 2.55, Code 1985, is amended by striking subsection 4.

Sec. 5. NEW SECTION. 2.100 COMPUTER SUPPORT BUREAU.

A computer support bureau is established under the direction and control of the legislative council. The administrative head of the computer support bureau is the director of the bureau. The computer support bureau shall serve the general assembly and the legislative council. The computer support bureau shall also provide services and support for the computer systems used by the legislative staff, the legislative service bureau, the public information office, the Code editor's office, the office of the citizens' aide and the legislative fiscal bureau.

Sec. 6. NEW SECTION. 2.101 DIRECTOR.

The director of the computer support bureau shall serve on a full-time basis, and shall:

1. Employ and supervise all employees of the computer support bureau in positions and at salaries authorized by the legislative council.

2. Supervise all expenditures of the computer support bureau with the approval of the legislative council.

3. Advise the legislative council on matters relating to computer services and computer needs and uses of the legislative computer system.

4. Cooperate with legislative agencies under the control of the legislative council and the secretary of the senate and the chief clerk of the house in developing and maintaining computer services required by the legislative council and the general assembly.

Sec. 7. NEW SECTION. 2.102 DIRECTOR - SALARY.

The salary of the director of the computer support bureau shall be set by the legislative council.

Sec. 8. NEW SECTION. 2.103 POWERS AND DUTIES.

The computer support bureau is responsible for the operation and maintenance of the legislative computer system. The bureau shall also advise the legislative council and legislative agencies under its control on uses and expanded capabilities of the legislative computer system.

Sec. 9. NEW SECTION. 2.104 BUDGET.

Expenses of the computer support bureau shall be paid upon approval of the director of the bureau. The budget of the computer support bureau for each fiscal year shall be prepared by the director and submitted to the legislative council.

Sec. 10. Notwithstanding section 1 of this Act, for the fiscal year beginning July 1, 1985 and ending June 30, 1986, there is appropriated out of any funds in the state treasury not otherwise appropriated such sums as may be necessary for the fiscal year budgets of the legislative service bureau, the legislative fiscal bureau, the citizens' aide office and the computer support bureau for salaries, support, maintenance and miscellaneous purposes to carry out their statutory responsibilities. The legislative council shall review the proposed budgets

of the legislative service bureau, the legislative fiscal bureau, the citizens' aide office and the computer support bureau as submitted to the state comptroller on or about September 1, 1984 for the fiscal year beginning July 1, 1985 and ending June 30, 1986. The legislative council shall review and approve the proposed budgets not later than June 1, 1985. The budget approved by the legislative council for each of its statutory legislative agencies shall be transmitted by the legislative council to the state comptroller on or before June 1, 1985 for the fiscal year beginning July 1, 1985 and ending June 30, 1986. The state comptroller shall issue warrants for salaries, support, maintenance and miscellaneous purposes upon requisition by the administrative head of each statutory legislative agency. If the legislative council elects to adjust the approved budget for a legislative agency prior to July 1, 1985, the legislative council shall notify the state comptroller of the amount of the budget revision prior to July 1, 1985.

Sec. 11. If this Act is enacted and becomes law and the provisions of Senate File 434, section 6, subsections 1 and 2, appropriating funds to the legislative service bureau and the legislative fiscal bureau for the fiscal year beginning July 1, 1985 and ending June 30, 1986, and House File 571, section 1, subsection 3, appropriating funds to the office of citizens' aide for the fiscal year beginning July 1, 1985 and ending June 30, 1986 are enacted and become law, the provisions of Senate File 434, section 6, subsections 1 and 2, and House File 571, section 1, subsection 3, are void and section 10 of this Act shall govern budget procedures for the budgets of the legislative service bureau, the legislative fiscal bureau, and the citizens' aide office for the fiscal year beginning July 1, 1985 and ending June 30, 1986.

Sec. 12. This Act, being deemed of immediate importance, takes effect from and after its publication in the Fort Madison Daily Democrat, a newspaper published in Fort Madison, Iowa, and in The Red Oak Express, a newspaper published in Red Oak, Iowa.

Approved April 30, 1985

I hereby certify that the foregoing Act was published in The Red Oak Express, Red Oak, Iowa on May 10, 1985 and in the Fort Madison Daily Democrat, Fort Madison, Iowa on May 10, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 66****ECONOMIC DEVELOPMENT AUTHORIZED FOR URBAN RENEWAL***H.F. 494*

**AN ACT** authorizing economic development as a purpose for approval of an urban renewal plan and an urban renewal project.

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

Section 1. Section 403.2, Code 1985, is amended by adding the following new subsection after subsection 2:

NEW SUBSECTION. 3. It is further found and declared that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment; and that it is accordingly necessary to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its municipalities; that accordingly it is necessary to authorize local governing bodies to designate areas of a municipality as economic development areas for commercial and industrial enterprises; and that it is also necessary to encourage the location and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to municipalities and the residents of the municipalities. Therefore, the powers granted in this chapter constitute the performance of essential public purposes for this state and its municipalities.

Sec. 2. Section 403.4, subsections 1 and 2, Code 1985, are amended to read as follows:

1. One or more slum ~~or~~, blighted or economic development areas exist in ~~such the~~ municipality.

2. The rehabilitation, conservation, redevelopment, development, or a combination thereof, of ~~such the area or areas~~ is necessary in the interest of the public health, safety, ~~morals~~ or welfare of the residents of ~~such the~~ municipality.

Sec. 3. Section 403.5, subsection 1, Code 1985, is amended to read as follows:

1. A municipality shall not approve an urban renewal project for an urban renewal area unless the governing body has, by resolution, determined ~~such the area~~ to be a slum area, ~~or a~~ blighted area, economic development area or a combination ~~thereof of those areas~~, and designated ~~such the area~~ as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a general plan for the municipality has been prepared. For this purpose and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt and to revise from time to time, a general plan for the physical development of the municipality as a whole, giving due regard to the environs and metropolitan surroundings. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project in accordance with subsection 4 ~~hereof~~.

Sec. 4. Section 403.7, Code 1985, is amended to read as follows:

403.7 CONDEMNATION OF PROPERTY.

A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this chapter. A municipality may exercise the power of eminent domain in the manner provided in chapter 472, and ~~aets Acts~~ Acts ~~amendatory thereof to that chapter~~ or supplementary thereto to ~~that chapter~~, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner: ~~Provided, that no.~~ However, real property belonging to the state, or any political subdivision thereof ~~of this state, may shall not~~ be acquired without its consent, ~~provided further that no and~~ real property or any right or interest therein ~~in the property~~ owned by any public utility company, pipeline company, railway or transportation company vested with the right of eminent domain under the laws of this state, shall ~~not~~ be acquired without the consent of ~~such the~~ company, or without first securing, after due notice to ~~such the~~ company and after hearing, a certificate authorizing condemnation of ~~such the~~ property from the board, commission or body having the authority to grant a certificate authorizing condemnation. In a condemnation proceeding, if a municipality proposes to take a part of a lot or parcel of real property, the municipality shall also take the remaining part of the lot or parcel if requested by the owner.

Sec. 5. Section 403.17, subsection 9, Code 1985, is amended to read as follows:

9. "Blighted area" ~~shall mean means~~ means an area of a municipality within which the local governing body of the municipality determines that by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, ~~predominance of~~ defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of ~~such these~~ factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, ~~morals,~~ or welfare in its present condition and use: ~~Provided, that if such blighted area consists of open land, the conditions contained in the proviso in section 403.5, subsection 4, shall apply: And provided further, that any.~~ A disaster area referred to in section 403.5, subsection 7, shall ~~constitute constitutes~~ a "blighted area".

Sec. 6. Section 403.17, subsection 10, unnumbered paragraph 1 and paragraph a, Code 1985, are amended to read as follows:

"Urban renewal project" may include undertakings and activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, may include the designation and development of an economic development area in an urban renewal area, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal program. ~~Such~~ The undertakings and activities may include:

a. Acquisition of a slum area, ~~or a blighted area~~, economic development area, or portion thereof of the areas;

Sec. 7. Section 403.17, subsection 11, Code 1985, is amended to read as follows:

11. "Urban renewal area" means a slum area, ~~or a blighted area~~, economic development area, or a combination thereof of the areas, which the local governing body designates as appropriate for an urban renewal project.

Sec. 8. Section 403.17, subsection 12, paragraph b, Code 1985, is amended to read as follows:

b. Be sufficiently complete to indicate ~~such~~ the land acquisition, demolition and removal of structures, redevelopment, development, improvements, and rehabilitation as ~~may be~~ proposed to be carried out in the urban renewal area, and to indicate zoning and planning changes, if any, land uses, maximum densities, building requirements, and the ~~plans~~ plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

Sec. 9. Section 403.17, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 20. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises.

Sec. 10. This Act, being deemed of immediate importance, takes effect from and after its publication in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Approved May 1, 1985

I hereby certify that the foregoing Act was published in The Sioux City Journal, Sioux City, Iowa on May 10, 1985 and in The Cedar Rapids Gazette, Cedar Rapids, Iowa on May 11, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 67**  
**CODE EDITOR'S BILL**  
*S.F. 121*

**AN ACT** relating to nonsubstantive Code corrections.

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

Section 1. Section 2.15, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A standing committee may call upon any department, agency or office ~~in~~ of the state, or any political subdivision of the state, for ~~such~~ information and assistance as ~~may be~~ needed in the performance of its duties and the information and assistance shall be furnished to the extent that they are within the resources and authority of the department, agency, office or political subdivision. This paragraph does not require the production or opening of any records which are required by law to be kept private or confidential.

Sec. 2. Section 2.52, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The director and agents and employees of the legislative fiscal bureau shall at all times have access to all state offices, departments, agencies, boards, bureaus, and commissions of the state, and its political subdivisions and private organizations providing services to individuals under contracts with state agencies, and to the books, records, and other instrumentalities and properties used in the performance of their statutory duties or contractual arrangements. All offices, departments, agencies, boards, bureaus, and commissions of the state and its political subdivisions and such private organizations shall co-operate with the director, and shall make available such books, records, instrumentalities, and property.

Sec. 3. Section 8C.1, article VI, paragraph a, Code 1985, is amended to read as follows:

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

Sec. 4. Section 11.20, Code 1985, is amended to read as follows:

**11.20 BILLS – AUDIT AND PAYMENT.**

If the examination is made by the auditor of state under this chapter, each auditor shall file with the auditor of state an itemized, certified and sworn voucher of expense for the time the auditor is actually engaged in the examination. The salaries shall be included in a ~~two-weekly~~ two-week payroll period. Upon approval of the auditor of state the state comptroller may issue warrants for the payment of the vouchers and salary payments, including a prorated amount for vacation and sick leave, from any unappropriated funds in the state treasury. Repayment to the state shall be made as provided by section 11.21.

Sec. 5. Section 23.21, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Notwithstanding this chapter, chapter 73, chapter 309, chapter 310, chapter 331, or chapter 384, when a contract for a public improvement is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a nonresident bidder from a state or foreign country which gives or requires a preference to bidders from that state or foreign country. The preference is equal to the preference given or required by the state or

foreign country in which the nonresident bidder is a resident. "Resident bidder" means a person authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least six months prior to the first advertisement for the public improvement and in the case of a corporation, having at least fifty percent of the its common stock is owned by residents of this state. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.

Sec. 6. Section 25A.19, Code 1985, is amended to read as follows:

25A.19 CLAIMS BEFORE APPEAL BOARD.

Section 25.7 shall not apply to claims as defined in this chapter, except as expressly provided in section 25A.2. The other provisions of chapter Chapter 25 shall does not apply to claims as defined in this chapter. However, any or all of the provisions of sections 25.1, 25.4, and 25.5 may be made applicable to claims as defined in this chapter by agreement between the attorney general and the state appeal board from time to time.

Sec. 7. Section 29B.115, Code 1985, is amended to read as follows:

29B.115 CONDUCT UNBECOMING AN OFFICER AND A GENTLEMAN.

Any A commissioned officer who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct directs.

Sec. 8. Section 53.22, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. If an applicant under this subsection notifies the commissioner that the applicant will not be available at the residence, health care facility or hospital address at any time during the ten-day period immediately prior to the election, but will be available there at some earlier time, the commissioner shall direct the two special precinct election officers to deliver the applicant's ballot at an appropriate time prior to the ten-day period immediately preceding the election. If a person who so requested an absentee ballot has been dismissed from the health care facility or hospital, the special precinct election officers may take the ballot to the elector if the elector is currently residing in the county.

Sec. 9. Section 80A.12, subsection 7, Code 1985, is amended by striking the subsection.

Sec. 10. Section 80B.13, subsection 8, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A recommendation by an employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final. Final, as used in this section, includes means that all appeals through a grievance procedure available to the officer or civil service have been exhausted. The written recommendations shall be unavailable for inspection by anyone except personnel of the employing agency, the council and the affected law enforcement officer, or as ordered by a reviewing court.

Sec. 11. Section 85.59, unnumbered paragraph 2, Code 1985, is amended to read as follows:

For purposes of this section, ~~the term~~ "inmate" excludes a person who is performing unpaid community service under section 907.13 or a work assignment of value to the state or to the public under chapter 232.

Sec. 12. Section 99D.22, subsection 2, paragraph b, subparagraph (3), Code 1985, is amended to read as follows:

(3) Continuous residency from December 31 until the foal is inspected if the mare was bred by other than an Iowa registered stallion and ~~which~~ is not bred back to an Iowa registered stallion.

Sec. 13. Section 106.33, Code 1985, is amended to read as follows:

**106.33 DRIVING OVER ICE.**

A craft or vehicle operating on the surface of ice on the lakes and streams of this state including boundary streams and lakes and propelled by sail or by machinery in whole or in part, except automobiles, motorcycles and trucks licensed ~~registered~~ under chapter 321 or snowmobiles registered under chapter 321G when they are used without endangering public safety, shall not be operated without a permit issued, by the commission, for ~~such~~ the operation. ~~Any such~~ A permit issued may be revoked by the commission if the craft or vehicle is operated in a careless manner which endangers others. Except when authorized by a permit for a special event, automobiles, motorcycles, and trucks when used on the ice of waters under the jurisdiction of the commission shall not exceed fifteen miles per hour and shall be operated in a reasonable and prudent manner.

Sec. 14. Section 108A.7, Code 1985, is amended to read as follows:

**108A.7 MANAGEMENT PLAN PUBLIC HEARING.**

The commission ~~will~~ shall hold a final public hearing on the completed management plan in the vicinity of the water area at least thirty days before permanent designation by the commission. Notice of the hearing shall be published at least twice, not less than seven days prior to the hearing, in a newspaper having general circulation in each county in which the water area is located.

Sec. 15. Section 110.24, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Owners or tenants of land, and their children, may hunt, fish or trap upon such lands and may shoot ground squirrels, gophers or woodchucks upon adjacent roads without securing a license so to do; except, special licenses to hunt deer and wild turkey shall be required ~~by~~ of owners and tenants but they shall not be required to have a special wild turkey license to hunt wild turkey on a game breeding and shooting preserve licensed under chapter 110A.

Sec. 16. Section 123.59, Code 1985, is amended to read as follows:

**123.59 BOOTLEGGING.**

Any person who, acting individually, or through another acting for the person, ~~shall keep keeps~~ or ~~carry carries~~ on ~~his~~ the person, or in a vehicle, or ~~leave leaves~~ in a place for another to secure, any alcoholic liquor or beer with intent to sell or dispense of ~~such~~ the liquor or beer by gift or otherwise in violation of law, or who ~~shall~~, within this state, in any manner, directly or indirectly, ~~solicit, take solicits, takes, or accept any accepts~~ an order for the purchase, sale, shipment, or delivery of ~~such~~ alcoholic liquor or beer in violation of law, or ~~aid aids~~ in the delivery and distribution of ~~any~~ alcoholic liquor or beer so ordered or shipped, or who ~~shall~~ in any manner ~~procure procures~~ for, ~~sell sells~~, or ~~give any gives~~ alcoholic liquor or beer to ~~any~~ a person under legal age, for any purpose except as authorized and permitted in this chapter, ~~shall be~~ is a bootlegger and be subject to the general penalties provided by this chapter.

Sec. 17. Section 135.93, Code 1985, is amended to read as follows:

**135.93 SCOPE OF LICENSE – DURATION.**

Licenses for hospice programs shall be issued only for the premises, person, hospital, or facility named in the application and are not transferable or assignable. A license, unless sooner suspended or revoked, shall expire two years after the date of issuance and shall be renewed biennially upon an application by the licensee. Application for renewal shall be made in writing to the department, accompanied by the ~~required~~ fee required to cover the cost of administering the program, at least thirty days prior to the expiration of the license. The fee for a license renewal shall be determined by the department. Licensed hospice programs which have allowed their licenses to lapse through failure to make timely application for renewal shall pay an additional fee of twenty-five percent of the biennial license fee.



Sec. 18. Section 148C.5, Code 1985, is amended to read as follows:

148C.5 ADVISORY COMMITTEE CREATED.

There is established an advisory committee on physicians' assistant programs which shall be advisory to the board on matters pertaining to the education of physicians' assistants and approval of applicants to supervise a physician's assistant. The committee shall consist of eight members appointed by the governor. The members of the committee shall include one representative of the medical board who shall be chairperson of the committee, a representative of an Iowa medical school, an educator with experience in the development of health manpower personnel programming, one physician, and one registered nurse. Each member of the committee shall receive a per diem and expenses within the limits prescribed by section 147.24. Per diem and expense payments shall be made from the state board of medical examiners fund.

Sec. 19. Section 174.13, Code 1985, is amended to read as follows:

174.13 COUNTY AID.

The board of supervisors of the county in which a society is located may appropriate moneys to be used for fitting up or purchasing fairgrounds for the society or for aiding boys and girls 4-H club work and payment of agricultural and livestock premiums in connection with the fair, if the society owns or leases at least ten acres of land for the fairground and owns or leases buildings and improvements on the land of at least eight thousand dollars in value. A society may meet the requirement of owning or leasing land, buildings, and improvements through ownership by a joint entity under chapter 28E, of which the society is a part.

Sec. 20. Section 189.2, subsection 1, Code 1985, is amended to read as follows:

1. Execute and enforce the provisions of this title, except chapters 203, 203A, 204, 204A and 205.

Sec. 21. Section 199.10, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. Tests for ~~seedsmen~~ seed dealers, permit holders and farmers who plan to sell seed.

Sec. 22. Section 199.10, subsection 3, unnumbered paragraph 1 and paragraphs a and c, Code 1985, are amended to read as follows:

Co-operation between the Iowa State University and the state department of agriculture. To furnish farmers and ~~seedsmen~~ seed dealers with information as to seed quality and guide them in the proper labeling of seed for sale, these organizations shall:

a. Integrate seed testing so as to avoid unnecessary duplication of personnel and equipment. The state department of agriculture seed laboratory shall be primarily concerned with seed testing for seed law enforcement purposes. The Iowa State University seed laboratory shall promote seed education and research and shall conduct service testing for farmers and ~~seedsmen~~ seed dealers.

c. Guide seed testing by all individuals, or organizations ~~or seedsmen~~ so as to promote uniformity of seed testing in Iowa.

Sec. 23. Section 222.31, subsection 3, Code 1985, is amended to read as follows:

3. The court shall examine the report of the county attorney filed pursuant to section 222.13, and if the report shows that neither the person nor those liable for the person's support under section 222.78 are presently able to pay the charges rising out of the person's care in the hospital-school, or special treatment unit, shall enter an order stating that finding and directing that the charges be paid by the person's county of residence. The court may, upon request of the board of supervisors, review its finding at any subsequent time while the person remains at the hospital-school, or is otherwise receiving care or treatment for which this

chapter obligates the county to pay. If the court finds upon review that the person or those legally responsible for the person's person are presently able to pay ~~such the~~ expenses, that finding shall apply only to the charges incurred during the period beginning on the date of the board's request for the review and continuing thereafter, unless and until the court again changes its finding. ~~When~~ If the court finds that the person, or those liable for the person's support, are able to pay the charges, the court shall enter an order directing that the charges be so paid to the extent required by section 222.78.

Sec. 24. Section 246.12, Code 1985, is amended to read as follows:

246.12 TRANSFERS FROM PENITENTIARY.

The state director may transfer first term and promising prisoners from the penitentiary to unoccupied rooms in the men's reformatory whenever the number of inmates in the penitentiary exceeds the number of cells ~~therein~~. ~~He~~ The director may also transfer to the men's reformatory other prisoners when satisfied that ~~such the~~ transfer will be ~~to~~ in the best interest of the institutions and of the prisoners.

Sec. 25. Section 246.32, Code 1985, is amended to read as follows:

246.32 ENFORCING OBEDIENCE TO ORDERS.

~~Any~~ An officer of ~~said institutions~~ an institution and ~~his~~ the officer's assistants shall, in case a prisoner resists ~~his~~ the officer's lawful authority, or refuses to obey ~~his~~ the officer's lawful command, enforce immediate obedience by the use of ~~such~~ weapons or other aids as may be effectual, and if, in so doing, ~~such convict the~~ prisoner is wounded or killed, ~~such the~~ officer and ~~his~~ the officer's assistants ~~shall be~~ are justified.

Sec. 26. Section 250.3, Code 1985, is amended to read as follows:

250.3 COUNTY COMMISSION OF VETERAN AFFAIRS.

The county commission of veteran affairs shall consist of three persons, all of whom shall be honorably discharged ~~men or women of the United States~~ persons who served in the military or naval forces of the United States in any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive. If possible each member of the commission shall be a veteran of a different war or conflict, so as to divide membership among the ~~men and women~~ persons who served in World War I, World War II, the Korean Conflict and Vietnam Conflict, however, this qualification ~~shall does not~~ preclude membership to a veteran who served in more than one of the wars or conflicts.

Sec. 27. Section 250.13, Code 1985, is amended to read as follows:

250.13 BURIAL — EXPENSES.

The commission ~~shall be~~ is responsible for the interment in a suitable cemetery of the bodies of any honorably discharged ~~men or women of the United States~~, person who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917 and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive, or the spouse, surviving spouse, or child of the person, if the person has died without leaving sufficient means to defray the funeral expenses. The commission may pay such expenses in a sum not exceeding an amount established by the board of supervisors.

Sec. 28. Section 250.14, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The board of supervisors of each county may appropriate moneys for the benefit of, and to pay the funeral expenses of honorably discharged, indigent men and women of the United States persons who served in the military or naval forces of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive, and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county.

Sec. 29. Section 250.16, Code 1985, is amended to read as follows:

250.16 MARKERS FOR GRAVES.

The county commission of veteran affairs may furnish ~~some~~ a suitable and appropriate metal marker, at a cost not exceeding fifteen dollars each, for the grave of each honorably discharged man or woman of the United States person, who served in the military or naval forces of the United States during any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive, and who is buried within the limits of the township or municipality, to be placed at the individual's grave to permanently mark and designate the grave for memorial purposes. The expenses shall be paid from any funds raised as provided in this chapter.

Sec. 30. Section 250.17, Code 1985, is amended to read as follows:

250.17 MAINTENANCE OF GRAVES.

~~The board county boards~~ of supervisors of the several counties in this state shall each year appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service man or woman of the United States person is buried, a sum sufficient to pay for the care and maintenance of the lots on which they are buried, in any and all cases in which provision for such care is not otherwise made.

Sec. 31. Section 261.1, subsection 6, unnumbered paragraphs 2 and 3, Code 1985, are amended to read as follows:

The members of the commission appointed by the governor shall serve for a term of four years, ~~but the terms of the four initial appointees shall be as follows:~~

~~Two members shall serve from the date of appointment to June 30, 1965, and two members shall serve from the date of appointment to June 30, 1967.~~

Sec. 32. Section 294.15, unnumbered paragraph 1, Code 1985, is amended to read as follows:

A person attaining the age of sixty-five who was an employee, holding a valid teaching certificate, in the public schools of this state with a record of service of twenty-five years or more, including a maximum of five years out-of-state service followed by at least ten years' service in this state prior to retirement and who retired prior to July 4, 1953, may receive, effective July 1, 1984, may receive retirement allowance payments from the state of Iowa equal to two hundred twenty dollars per month. An amount necessary to meet this requirement shall be added to the retirement allowance payments, if any, now being received from the state of Iowa by individuals covered under this section. No such person shall receive retirement benefits from the state of more than two hundred twenty dollars per month. The word "employee" as

used in this section includes persons who were state superintendents, county superintendents, or deputy county superintendents.

Sec. 33. Section 296.3, Code 1985, is amended to read as follows:

**296.3 ELECTION CALLED.**

The president of the board of directors, ~~on within ten days of receipt of a petition under section 296.2, within ten days after considering the suggestions of the area education agency board, or the board of a district contiguous to the district for which the petition is received, under section 297.7, subsection 3,~~ shall call a meeting of the board which shall call the election, fixing the time of the election, which may be at the time and place of holding the regular school election, unless the board determines by unanimous vote that the proposition or propositions requested by a petition to be submitted at an election are grossly unrealistic or contrary to the needs of the school district. The decision of the board may be appealed to the state board of public instruction as provided in chapter 290. The president shall notify the county commissioner of elections of the time of the election.

Sec. 34. Section 321.19, subsection 1, Code 1985, is amended to read as follows:

1. All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign governments or by officers, boards, or departments of the government of the United States, and by the state, counties, municipalities and other political subdivisions of the state including vehicles used by an urban transit company operated by a municipality, ~~or a regional transit system,~~ and self-propelling vehicles used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality, ~~or a regional transit system,~~ and all fire trucks, providing they are not owned and operated for a pecuniary profit, are exempted from the payment of the fees imposed by this chapter, except as provided for urban transit companies in subsection 2, but are not exempt from the penalties provided in this chapter.

**PARAGRAPH DIVIDED.** The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official," and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven pointed gold star on a green background followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law and persons enforcing chapter 204 and other laws relating to controlled substances. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit," the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information which may be required by the department. The in-transit card shall be valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 35. Section 321.34, subsection 8, Code 1985, is amended to read as follows:

8. Prisoner of war plates. The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who was a prisoner of war during the second world war at any time between December 7, 1941 and December 31, 1946, the Korean conflict at any time between June 25, 1950 and January 31, 1955 or the Vietnam conflict at any time between August 5, 1964 and June 30, 1973, all dates inclusive, may upon written application to the department, order special registration plates designed by the department in co-operation with the adjutant general which plates signify that the applicant was a prisoner of war as defined in this subsection. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department, in consultation with the adjutant general, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The special plates shall contain the letters "POW" and three numerals and shall be ~~are~~ subject to an annual registration fee of fifteen dollars. The department shall validate the special plates in the same manner as regular registration plates are validated under this section ~~at the regular annual registration fee.~~

Sec. 36. Section 321.52, subsection 3, Code 1985, is amended to read as follows:

3. When a vehicle for which a certificate of title is issued is junked or dismantled by the owner, the owner shall detach the registration plates and surrender the plates to the county treasurer, unless the plates are properly assigned to another vehicle. The owner shall also surrender the registration receipt and certificate of title to the county treasurer. Upon surrendering the certificate of title, the county treasurer shall issue to ~~such~~ the person, without fee, a junking certificate, which shall authorize the holder to possess, transport or transfer ownership of the junked vehicle by endorsement of the junking certificate. The county treasurer shall hold the surrendered certificate of title, registration receipt and, if applicable, the registration plates for a period of fourteen days following the issuance of a junking certificate under this subsection. Within the fourteen-day period the person who was issued the junking certificate and to whom the vehicle was titled or assigned may surrender to the county treasurer the junking certificate, and upon the person's payment of appropriate fees and taxes and payment of any credit for registration fees received by the person for the vehicle under section 321.46, subsection 3, the county treasurer shall issue to the person a ~~restricted~~ certificate of title for the vehicle. After the expiration of the fourteen-day period, a certificate of title shall not again be issued for the junked vehicle for which a junking certificate is issued. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department.

Sec. 37. Section 321.283, subsection 6, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Temporary driving permit. Any A person required to attend evaluation, treatment or rehabilitation services by ~~the provisions of~~ this division, who is subject to a drivers license suspension or revocation, may be issued a temporary driving permit by the department restricted to driving to and from the person's home, place of employment, in the person's employment, and the location of the required evaluation, treatment or rehabilitation services. Any A person who does not receive a temporary driving permit may after the period of license suspension or revocation for a violation of section 321.281 have ~~his or her~~ the person's drivers license reissued subject to suspension for failure to comply with ~~the provisions of~~ this division. This section shall does not permit the issuance of a temporary driving

permit or reissuance of a drivers license where the provisions of if chapter 321A have has not been complied with.

Sec. 38. Section 322.9, subsection 4, Code 1985, is amended by striking the subsection.

Sec. 39. Section 322D.3, subsection 5, Code 1985, is amended to read as follows:

5. Any inventory for which the franchisee is unable to furnish evidence of title and ownership in the retailer franchisee that is free and clear of all claims, liens and encumbrances to the satisfaction of the franchiser.

Sec. 40. Section 324.36, subsection 1, Code 1985, is amended to read as follows:

1. Required. It is unlawful for a person to act as a special fuel dealer in this state unless the person holds a special fuel dealer's license issued to the person by the department of revenue, except as provided in this section 3 of this Act. A person who holds a special fuel distributor's license may dispense special fuel into a motor vehicle special fuel holding tank without obtaining a special fuel dealer's license. Except for special fuel which is delivered by a special fuel dealer into a fuel supply tank of a motor vehicle or into a motor vehicle special fuel holding tank in this state or delivered by a special fuel distributor into a motor vehicle special fuel holding tank, the use, as herein defined, of special fuel in this state by a person is unlawful unless the person holds a special fuel user's license issued to the person by the department of revenue. It is unlawful for a person to sell special fuel in this state in bulk for highway use without first obtaining a special fuel distributor's license. The license shall be issued under the same procedure and subject to the same requirements and limitations as provided in section 324.4.

Sec. 41. Section 331.653, subsection 22, Code 1985, is amended by striking the subsection.

Sec. 42. Section 357A.2, unnumbered paragraph 2, Code 1985, is amended to read as follows:

There shall be filed with the petition a bond with sureties approved by the auditor, or a certified check, credit union certified share draft or cash in an amount and with sureties approved by the auditor, sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

Sec. 43. Section 358.2, unnumbered paragraph 3, Code 1985, is amended to read as follows:

There shall be filed with the petition a bond with sureties approved by the auditor, or a certified check, credit union certified share draft or cash in an amount and with sureties approved by the auditor, sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

Sec. 44. Section 425.26, subsection 9, Code 1985, is amended by striking the subsection.

Sec. 45. Section 442.9, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. As used in this chapter, "district cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The district cost per pupil for the budget year is equal to the district cost per pupil for the base year plus the allowable growth. However, district cost per pupil does not include additional allowable growth added for programs for gifted and talented children, for programs for returning dropouts, and for educational improvement projects, under this chapter 260A or for school districts that have a negative balance of funds raised for special education instruction programs under section 442.13, subsection 14, paragraph "b", and does not include additional allowable growth established by the school budget review committee for a single school year only.

Sec. 46. Section 467A.71, subsection 4, Code 1985, is amended to read as follows:

4. This section does not negate the provisions of section 467A.48 that an owner or occupant of land in this state shall not be required to establish any new soil and water conservation practice unless public cost-sharing funds have been approved and are available for the land affected. However, the owner of land with respect to which an administrative order to establish soil and water conservation practices has been issued under section 467A.47 but not complied with for lack of public cost-sharing funds, may waive the right to await availability of such funds and instead apply for a loan under this section to establish any permanent soil and water conservation practices necessary to comply with the order. If a landowner does so, that loan application shall be given reasonable preference by the state soil conservation committee if there are applications for more loans under this section than can be made from the money available in the conservation practices revolving loan reserve fund. If it is found necessary to deny an application for a soil and water conservation practices loan to a landowner who has waived the right to availability of public cost-sharing funds before complying with an administrative order issued under section 467A.47, the landowner's waiver is void.

Sec. 47. Section 467D.20, Code 1985, is amended to read as follows:

467D.20 BIDS ON WORK – DEPOSIT.

When the estimated total cost of construction, enlargement, alteration or repair of an internal improvement exceeds five thousand dollars, the conservancy district shall advertise for bids on the proposed improvement by two publications in at least one newspaper of general circulation in the conservancy district. The first advertisement shall be not less than fifteen days prior to the date set for receiving bids and the district shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if in the judgment of the board the bids received are not acceptable, all bids may be rejected and new bids requested. All bids shall be accompanied, in a separate envelope, by a deposit of money, credit union certified share draft or certified check, in an amount to be named in the advertisement for bids, as security that the bidder will enter into a contract in accordance with the terms of the bid. The board shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the share draft, check or deposit of money of the successful bidder shall be returned upon execution of the contract documents.

Sec. 48. Section 507C.21, subsection 1, paragraphs a, d, j and k, and subsection 2, Code 1985, are amended to read as follows:

a. Appoint a special deputy to act for the liquidator under this chapter, and to determine the special deputy's reasonable compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

d. Pay reasonable compensation to persons appointed and to defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of an appropriation for the maintenance of the insurance department. Amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the insurance department out of the first available moneys of the insurer.

j. Borrow money on the security of the insurer's assets or without security and to execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation.

k. Enter into contracts as are necessary to carry out the order to liquidate and to affirm or disavow contracts to which the insurer is a party.

2. This section does not limit the liquidator or exclude the liquidator to exercise from exercising a power not listed in subsection 1 that may be necessary or appropriate to accomplish the purposes of this chapter.

Sec. 49. Section 507C.50, subsection 1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If a domiciliary liquidator has not been appointed, the commissioner may apply to the court by verified petition for an order directing the ~~commission~~ commissioner to act as conservator to conserve the property of an alien insurer not domiciled in this state or a foreign insurer on any of the following grounds:

Sec. 50. Section 562A.28, Code 1985, is amended to read as follows:

562A.28 FAILURE TO MAINTAIN.

If there is noncompliance by the tenant with section 562A.17, materially affecting health and safety, that can be remedied by repair or replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike competent manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value of it as rent on the next date when periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Sec. 51. Section 562B.18, subsection 5, Code 1985, is amended to read as follows:

5. Act and require other persons in the mobile home park with the tenant's consent to ~~conduct themselves~~ act in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the mobile home park.

Sec. 52. Section 587.1, Code 1985, is amended to read as follows:

587.1 DECREES AGAINST UNKNOWN CLAIMANTS.

All decrees of court obtained in actions against unknown defendants in which the notice was entitled in the initial or initials of the plaintiff instead of the plaintiff's full ~~Christian given~~ name are hereby legalized, and ~~said the~~ decrees shall have the same force and effect as if ~~such~~ the notice had been entitled in the full name of the plaintiff as was provided for in section 3538, Code of 1897, and as is ~~provided for~~ in section 3538 of the supplement to the Code of 1913.

Sec. 53. Section 595.2, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. The certificate of consent of the parents, parent or guardian is approved by a judge of the district court or, if both parents of any underaged party to a proposed marriage are dead, incompetent or cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if ~~he~~ the judge finds the underaged party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underaged party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underaged party or parties, however if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.



Sec. 54. Section 595.4, unnumbered paragraphs 2 and 3, Code 1985, are amended to read as follows:

After expiration of three days from the date of filing the application by the parties, the clerk shall issue the license if ~~he~~ the clerk is satisfied as to the competency of the parties to contract a marriage. If the license has not been issued within one year from the date of the application, the application shall be is void and of no effect.

A license to marry may be issued prior to the expiration of three days from the date of filing the application for ~~such~~ the license in cases of emergency or extraordinary circumstances. An order authorizing the issuance of ~~such~~ a license may be granted by a judge of the district court under conditions of emergency or extraordinary circumstances upon application of the parties ~~therefor~~ filed with the clerk of court. No such order may be granted unless the parties have filed an application for a marriage license in a county within the judicial district. An application for such ~~an~~ order shall be made on forms furnished by the clerk at the same time the application for the license to marry is made. If after examining the application for the marriage license the clerk is satisfied as to the competency of the parties to contract a marriage, ~~he~~ the clerk shall refer the parties to a judge of the district court for action on the application for an order authorizing the issuance of a marriage license prior to expiration of three days from the date of filing the application for the license. The judge shall, if satisfied as to the existence of an emergency or extraordinary circumstances, grant an order authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license to marry. The clerk shall issue a license to marry upon presentation by the parties of the order authorizing ~~such~~ a license to be issued. A fee of five dollars shall be paid to the clerk at the time the application for the order is made, which fee ~~shall be~~ is in addition to the fee prescribed by law for the issuance of a marriage license.

Sec. 55. Section 595.6, Code 1985, is amended to read as follows:

**595.6 FILING AND RECORD REQUIRED.**

The affidavit or certificate, in each case, shall be filed by the clerk and constitute a part of the records of ~~his~~ the clerk's office. A memorandum of ~~such~~ the affidavit or certificate shall also be entered in the license book.

Sec. 56. Section 598.23, subsection 2, Code 1985, is amended to read as follows:

2. The court may, as an alternative to punishment for contempt, make an order which, according to the subject matter of the order or decree involved, does the following:

a. Directs the defaulting party to assign, trust income, or a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as those to be made in the future. Where the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. s. 1673b (Supp. 1979) and the assignment order ~~shall be~~ is binding upon the employer only for those amounts that represent child support and only upon receipt by the employer of a copy of the order, signed by the employee. For each payment deducted in compliance with ~~such request~~ an assignment, the payor may deduct a sum not exceeding one dollar as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of the ~~employer's payor's~~ employer's liability to the payee as to the affected portion of the payee's wages, or trust income. ~~Any~~ An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

b. ~~Modifying~~ Modifies visitation to compensate for lost visitation time or ~~establishing~~ establishes joint custody for the child or ~~transferring~~ transfers custody.

Sec. 57. Section 598.41, subsection 1 and subsection 3, unnumbered paragraph 1, Code 1985, are amended to read as follows:

1. The court, insofar as is reasonable and in the best ~~interests~~ interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, unless direct physical harm or significant emotional harm to the child is likely to result from such contact with one parent, and which will encourage parents to share the rights and responsibilities of raising the child. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.

In considering what custody arrangement under subsection 2 is in the best ~~interests~~ interest of the minor child, the court shall consider the following factors:

Sec. 58. Section 598.41, subsections 5 and 6, Code 1985, are amended to read as follows:

5. Joint legal custody does not require joint physical care. When the court determines such action would be in the child's best ~~interests~~ interest of the child, physical care may be given to one joint custodial parent and not to the other. If one joint custodial parent is awarded physical care, the court shall hold that parent responsible for providing for the best ~~interests~~ interest of the child. However, physical care given to one parent does not affect the other parent's rights and responsibilities as a legal custodian of the child. Rights and responsibilities as legal custodian of the child include, but are not limited to, equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.

6. When the parent awarded custody or physical care of the child cannot act as custodian or caretaker because the parent has died or has been judicially adjudged incompetent, the court shall award custody including physical care of the child to the surviving parent unless the court finds that such an award is not in the child's best ~~interests~~ interest.

Sec. 59. Section 602.1214, subsection 4, Code 1985, is amended to read as follows:

4. The district court administrator shall employ and supervise all employees of the district court except court reporters, clerks of the district court, employees of the clerks of the district court, juvenile ~~probation court~~ officers, and employees of juvenile ~~probation court~~ officers.

Sec. 60. Section 602.8104, subsection 2, paragraph i, Code 1985, is amended by striking the paragraph.

Sec. 61. Section 602.9103, Code 1985, is amended to read as follows:

602.9103 NOTICE BY JUDGE IN WRITING.

This article ~~shall~~ does not apply to ~~any~~ a judge of the ~~municipal, superior, or~~ district court including a district associate judge, or a judge of the court of appeals or of the supreme court, until the judge gives notice in writing, while serving as a judge, to the state comptroller and treasurer of state, of the judge's purpose to come within its purview. ~~Judges of the municipal and superior courts shall at the same time give a copy of such notice to the city treasurer and county auditor within the district of such court. Such~~ The notice shall be given ~~within one year after the effective date hereof or~~ within one year after ~~any~~ the date on which the judge takes oath of office as such judge.

Sec. 62. 1976 Iowa Acts, chapter 1204, section 4, lines 24 through 26, amending section 455B.30, Code 1975, are amended to read as follows:

NEW SUBSECTION. "Sewer extension" means pipelines or conduits constituting main sewers, lateral sewers or ~~truck~~ trunk sewers used for conducting pollutants to a larger interceptor sewer or to a point of ultimate disposal.

Sec. 63. Sections 24.35 and 24.36, Code 1985, are repealed.

Approved May 1, 1985

**CHAPTER 68**  
ENGINEERING EXAMINERS BOARD SECRETARY  
*S.F. 154*

**AN ACT** relating to the duties of the secretary for the state board of engineering examiners.\*

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

Section 1. Section 114.11, Code 1985, is amended to read as follows:  
114.11 SECRETARY — DUTIES.

The secretary shall keep on file a record of all certificates of registration granted and shall make ~~annually~~ such annual revisions of ~~said~~ the record as ~~may~~ be necessary. In revising ~~said~~ the record the secretary shall communicate ~~biannually~~ biennially by mail with every professional engineer and surveyor registered ~~hereunder~~ under this chapter, as provided in section 114.18.

Approved May 1, 1985

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\*According to enrolled Act

**CHAPTER 69**  
LIMITS ON CREDIT LIFE INSURANCE  
*S.F. 172*

**AN ACT** increasing the maximum amount of credit life insurance that may be written to insure the life of a debtor.

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

Section 1. Section 509.1, subsection 3, paragraph d, Code 1985, is amended to read as follows:

d. The amount of insurance on the life of ~~any~~ a debtor shall ~~at no time~~ not exceed the amount owed by the debtor to the creditor, or the face amount of ~~any~~ a totally or partially executed loan or loan commitment, ~~totally or partially executed~~, creating personal liability and made in good faith for general agricultural or horticultural purposes to a debtor with seasonal income; ~~however, it shall not.~~ However, in no event shall the amount of insurance exceed thirty-five fifty thousand dollars.

Approved May 1, 1985

**CHAPTER 70**  
**MOBILE HOME PARK REPORTS**  
*S.F. 194*

**AN ACT** striking the semiannual reporting requirement by mobile home park licensees, and providing a civil penalty.

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

Section 1. Section 135D.24, subsection 3, Code 1985, is amended to read as follows:

3. Each mobile home park licensee shall keep an accurate and complete record of the number of units of mobile homes harbored in the park, listing the owner's name, year and make of the unit, and report this information on or before the tenth day of March and September with supplemental monthly reports listing arrivals and departures of mobile homes for which a tax clearance statement was not issued to notify the county treasurer concerning any mobile home or manufactured home arriving in or departing from the park without a tax clearance statement. The records of the licensee shall be open to inspection by a duly authorized representative of any law enforcement agency. Any property owner, manager or tenant shall report to the county treasurer mobile homes parked upon any property owned, managed, or rented by that person.

Sec. 2. **NEW SECTION. 135D.27 CIVIL PENALTY.**

The owner of a mobile home who moves the mobile home without having obtained a tax clearance statement as provided in section 135D.24 shall pay a civil penalty of one hundred dollars. The penalty money shall be credited to the general fund of the county.

Approved May 1, 1985

**CHAPTER 71**  
**QUALIFICATIONS OF SURETIES**  
*S.F. 230*

**AN ACT** relating to qualifications of sureties.

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

Section 1. Section 682.4, Code 1985, is amended to read as follows:

**682.4 QUALIFICATIONS OF SURETIES.**

Each personal surety shall execute and file with the clerk an affidavit that the surety owns real estate subject to execution, other than real estate held in joint tenancy between persons other than cosureties, equal to double the amount of the bond, and shall include in such the affidavit the total amount of the surety's obligations as surety on other official or statutory bonds. ~~Where~~ If there are two or more sureties ~~in on~~ the same bond, they must in the aggregate have the qualification prescribed in this section.

Approved May 1, 1985

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**CHAPTER 72**  
**RECOVERY OF ATTORNEY'S FEE**  
*S.F. 289*

**AN ACT** relating to the filing of an affidavit prior to the taxing of attorney's fees for the recovery on a contract containing an agreement to pay an attorney's fee.

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

Section 1. Section 625.24, Code 1985, is amended to read as follows:

**625.24 AFFIDAVIT REQUIRED.**

The attorney's fee allowed in sections 625.22 and 625.23 shall not be taxed in any case unless it ~~shall appear~~ appears by affidavit of the attorney, ~~filed with the petition at the commencement of the action, that there has been, and is, no agreement between such attorney and the attorney's client, express or implied, nor between the attorney and any other person, except a practicing attorney engaged with the attorney as an attorney in the cause, for any division or~~

sharing of the fee to be taxed, which, when taxed that there is not and has not been an agreement between the attorney and the attorney's client or any other person, express or implied, for any division or sharing of the fee to be taxed. This limitation does not apply to a practicing attorney engaged with the attorney as an attorney in the cause. The affidavit shall be filed prior to any attorney's fees being taxed. When fees are taxed, they shall be only in favor of a regular attorney and as compensation for services actually rendered in the action.

Approved May 1, 1985

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**CHAPTER 73**  
FILLING OF PRESCRIPTIONS  
*S.F. 306*

**AN ACT** relating to certain requirements for the filling of prescriptions for controlled substances and poisons.

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

Section 1. Section 205.3, Code 1985, is amended to read as follows:  
205.3 PRESCRIPTIONS.

~~No~~ A person shall not fill any prescriptions calling for any of the drugs a prescription for a drug required by chapter 204 or this chapter to be furnished only upon written prescription unless the same be prescription is ordered for a medical, dental, or veterinary purposes purpose only, and unless the physician, dentist, or veterinarian prescribing the same be personally known to such person, and no such prescription shall be refilled.

Approved May 6, 1985

**CHAPTER 74**  
**COACHES — CONTRACTS**  
*S.F. 480*

**AN ACT** relating to time lines and requirements for a certificated school employee to accept an extracurricular contract and providing that the Act takes effect upon its publication.

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

Section 1. Section 279.19A, subsections 1 and 2, Code 1985, are amended to read as follows:

1. School districts employing individuals to coach interscholastic athletic activities sports shall issue a separate extracurricular contract for each of these activities sports. An extracurricular contract offered under this section shall be separate from the contract issued under section 279.13. Wages for employees who coach these activities sports shall be paid pursuant to established or negotiated supplemental pay schedules. An extracurricular contract shall be in writing, and shall state the number of contract days for that sport, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract shall be for a single school year.

2. An extracurricular contract shall be continued automatically in force and effect for equivalent periods, except as modified or terminated by mutual agreement of the board of directors and the employee, or terminated in accordance with this section. An extracurricular contract shall initially be offered by the employing board to an individual on the same date that contracts are offered to teachers under section 279.13. An extracurricular contract may be terminated at the end of a school year pursuant to sections 279.15 through 279.19. If the school district offers an extracurricular contract for an activity a sport for the subsequent school year to an employee who is currently performing under an extracurricular contract for that activity sport, and the employee does not wish to accept the extracurricular contract for the subsequent year, the employee may resign from the extracurricular contract within twenty-one days after it has been received.

Sec. 2. Section 279.19A, subsection 4, paragraph c, Code 1985, is amended to read as follows:

c. The position has not been filled by June 1 of the year in which the vacancy occurred for the interscholastic athletic activity sport.

Sec. 3. Section 279.19A, subsection 5, unnumbered paragraph 1, Code 1985, is amended to read as follows:

By Within seven days following June 1 of that year, the board shall notify the employee in writing if the board intends to require the employee to accept an extracurricular contract for the subsequent school year under subsection 3 or 4. If the employee believes that the board did not make a good faith effort to fill the position the employee may appeal the decision by notifying the board in writing within seven school ten days after receiving the notification.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Clinton Herald, a newspaper published in Clinton, Iowa, and in The Maquoketa Sentinel-Press, a newspaper published in Maquoketa, Iowa.

Approved May 6, 1985

I hereby certify that the foregoing Act was published in The Clinton Herald, Clinton, Iowa on May 13, 1985 and in The Maquoketa Sentinel-Press, Maquoketa, Iowa on May 15, 1985.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 75**  
**FOREST AND FRUIT-TREE RESERVATIONS**  
*S.F. 509*

**AN ACT** relating to the inspection of fruit-tree or forest reservations and making the Act retroactive.

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

Section 1. Section 161.12, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The ~~appropriate~~ board of supervisors shall designate the county conservation board or, in a county without a county conservation board, the assessor who shall inspect the area for which an application is filed for a fruit-tree or forest reservation tax exemption before the application is accepted. Use of aerial photographs may be substituted for on-site inspection when appropriate. The application can only be accepted if it meets the criteria established by the state conservation commission to be a fruit-tree or forest reservation. Once the application has been accepted, the area shall continue to receive the tax exemption during each year in which the area is maintained as a fruit-tree or forest reservation without the owner having to refile. If the property is sold or transferred, the buyer or transferee does not have to refile for the tax exemption. The tax exemption shall continue to be granted for the remainder of the eight-year period for fruit-tree reservation and for the following years for forest reservation or until the property no longer qualifies as a fruit-tree or forest reservation. The area may be inspected each year by the county conservation board or, in a county without a county conservation board, the assessor to determine if the area is maintained as a fruit-tree or forest reservation. If the area is not maintained or is used for economic gain other than as a fruit-tree reservation during any year of the eight-year exemption period and any year of the following five years or as a forest reservation during any year for which the exemption is granted and any of the five years following those exemption years, the assessor shall assess the property



for taxation at its fair market value as of January 1 of that year and in addition the area shall be subject to a recapture tax. However, the area shall not be subject to the recapture tax if the owner, including one possessing under a contract of sale, and the owner's direct antecedents or descendants have owned the area for more than ten years. The tax shall be computed by multiplying the consolidated levy for each of those years, if any, of the five preceding years for which the area received the exemption for fruit-tree or forest reservation times the assessed value of the area that would have been taxed but for the tax exemption. This tax shall be entered against the property on the tax list for the current year and shall constitute a lien against the property in the same manner as a lien for property taxes. The tax when collected shall be apportioned in the manner provided for the apportionment of the property taxes for the applicable tax year.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Manchester Press*, a newspaper published in Manchester, Iowa, and in the *Diamond Trail News*, a newspaper published in Sully, Iowa, and is retroactive to January 1, 1985, for valuations established for assessment years beginning on or after January 1, 1985.

Approved May 6, 1985

I hereby certify that the foregoing Act was published in *The Manchester Press*, Manchester, Iowa on May 15, 1985 and in the *Diamond Trail News*, Sully, Iowa on May 15, 1985.

MARY JANE ODELL, *Secretary of State*

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**CHAPTER 76**  
**MOTOR VEHICLE FUEL**  
*S.F. 539*

**AN ACT** relating to motor vehicle fuel.

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

Section 1. Section 214A.1, Code 1985, is amended by adding the following new subsections:  
**NEW SUBSECTION. 5.** "Oxygenate octane enhancer" means oxygen-containing compounds, including but not limited to alcohols and ethers.

**NEW SUBSECTION. 6.** "A.S.T.M." means the American society for testing and materials.

Sec. 2. Section 214A.2, subsection 1, Code 1985, is amended to read as follows:

1. The secretary is authorized, ~~after public hearing following due notice, to make appropriate~~ shall adopt rules pursuant to chapter 17A for carrying out the provisions of this chapter. In the interest of uniformity, the secretary shall adopt by reference or otherwise

specifications relating to tests and standards for motor fuel established by the American society for testing and materials (A.S.T.M.), unless the secretary determines those specifications are inconsistent with this chapter or are not appropriate to the conditions which exist in this state. References to A.S.T.M. specifications and standards are to the A.S.T.M. specifications and standards in effect on January 1, 1985.

Sec. 3. Section 214A.2, subsection 2, unnumbered paragraphs 2, 3, 4, and 5, Code 1985, are amended to read as follows:

Octane number for regular grade leaded gasoline shall follow the latest specifications of A.S.T.M. and but shall not be less than eighty-eight.

Octane number for premium grade leaded gasoline shall follow the latest specifications of A.S.T.M. and but shall not be less than ninety-three.

Octane number for regular grade unleaded ~~grade~~ gasoline shall follow the latest specifications of A.S.T.M. and but shall not be less than eighty-seven.

Octane number for premium grade unleaded gasoline shall follow the latest specifications of A.S.T.M. and but shall not be less than ninety.

Sec. 4. Section 214A.2, subsection 2, unnumbered paragraphs 6, 7, and 8, Code 1985, are amended by striking the paragraphs.

Sec. 5. Section 214A.2, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Gasoline shall not contain methanol without an equal amount of cosolvent, and shall not contain more than five percent methanol.

Sec. 6. Section 214A.16, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**214A.16 NOTICE OF BLENDED FUEL.**

All motor vehicle fuel kept, offered, or exposed for sale, or sold at retail containing over one percent ethanol, methanol, or any combination of oxygenate octane enhancers shall be identified as "with" either "ethanol", "methanol", "ethanol/methanol", or similar wording on a white adhesive decal with black letters at least one inch high and at least one-quarter inch wide placed between thirty and forty inches above the driveway level on the front sides of any container or pump from which the motor fuel is sold.

**Sec. 7. NEW SECTION. 214A.17 DOCUMENTATION IN TRANSACTIONS.**

Upon any delivery of motor vehicle fuel to a retailer, the invoice, bill of lading, shipping or other documentation shall disclose the presence, type, and amount of oxygenate octane enhancers over one percent by weight contained in the fuel.

**Sec. 8. NEW SECTION. 214A.18 WHOLE-CENT PRICING.**

No retailer shall sell or offer for sale motor vehicle fuel except at a whole-cent price per unit.

Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in The Cedar Valley Times, a newspaper published in Vinton, Iowa, and in The Bancroft Register, a newspaper published in Bancroft, Iowa.

Approved May 6, 1985

I hereby certify that the foregoing Act was published in The Cedar Valley Times, Vinton, Iowa on May 10, 1985 and in The Bancroft Register, Bancroft, Iowa on May 15, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 77**  
**OUTSTANDING ARREST WARRANTS**

*H.F. 454*

**AN ACT** requiring monthly notification to the county treasurer of outstanding arrest warrants for certain offenses.

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

Section 1. Section 321.40, unnumbered paragraph 3, Code 1985, is amended to read as follows:

The county treasurer shall refuse to renew the registration of a vehicle registered to a person when notified that there is a warrant outstanding for that person's arrest out of a court located within that county and the warrant arises out of the alleged violation of a provision of this chapter or of an ordinance adopted by a local authority relating to the stopping, parking or operation of a vehicle or the regulation of traffic. Each clerk of court in this state shall, ~~by December 1~~ by the last day of each year month, ~~submit to notify~~ the county treasurer of that county ~~an alphabetized list~~ of all persons against whom such an arrest warrant has been issued and is outstanding. Immediately upon the cancellation or satisfaction of such an arrest warrant the clerk of court shall notify the person against whom the arrest warrant was issued and the county treasurer if that person's name appeared on the last list furnished to the county treasurer. This paragraph ~~shall~~ does not apply to the transfer of a registration or the issuance of a new registration. The provisions of this paragraph are applicable to counties with a population of two hundred thousand or more. The provisions of this paragraph shall be applicable to any county with a population of less than two hundred thousand upon the adoption of a resolution by the county board of supervisors so providing.

Approved May 6, 1985

**CHAPTER 78**  
**FINANCING HYDROELECTRIC POWER FACILITIES**  
*H.F. 726*

**AN ACT** relating to joint exercise of powers to finance hydroelectric power facilities.

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

Section 1. **NEW SECTION. 28F.14 HYDROELECTRIC UTILITIES — EMINENT DOMAIN — CONTRACTS.**

As used in this section, "hydroelectric utility" means an entity comprised of any number of public agencies or entities created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1, which owns or operates or proposes to own or operate all or part of a hydroelectric power facility or the capacity or use of a hydroelectric power facility.

In addition to other powers, a hydroelectric utility having complied with chapter 469A shall have the power of eminent domain for the purposes of constructing a hydroelectric utility but before exercising the power it shall first exhaust all efforts to secure the necessary voluntary easements. The hydroelectric utility shall comply with provisions of law then in effect, including section 28F.11, and applicable to those public agencies comprising the hydroelectric utility in connection with the construction of hydroelectric power facilities.

In addition to other powers, the governing body of a hydroelectric utility may purchase all or part of any power plant and may purchase all or part of the capacity, power or energy associated with any power plant owned by, or contract to sell all or part of the hydroelectric utility's power and energy including any surplus to, a public agency or private agency or an entity created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1. Any such entity, public agency, or hydroelectric utility may enter into contracts for the purchase or supply, from any source, of all or a portion of the capacity, power and energy requirements of the entity, public agency or hydroelectric utility on terms and conditions as the governing body of the entity, public agency or hydroelectric utility deems fit, subject to section 476.43. The terms may include provisions for the payment for capacity or output of a facility whether the facility is completed or operating, and for establishing the rights and obligations of all parties to the contract in the event of default. Payments made by an entity, public agency or hydroelectric utility under contracts constitute operating expenses of the entity, public agency or hydroelectric utility payable from the revenues derived from the electric power plant and systems of the entity, public agency or hydroelectric utility.

Sec. 2. Section 28F.1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A city shall not join an entity created under this chapter for the purpose of financing electric power facilities unless that city ~~owned and operated~~ had established a municipal electric utility as of July 1, ~~1981~~ 1984. Power supplied by a municipal power agency ~~may~~ shall not be furnished to a municipal utility not existing as of July 1, ~~1981~~ 1984.

Approved May 6, 1985

**CHAPTER 79**  
**PILOT PROGRAM ON HAZARDOUS WASTES**  
*H.F. 728*

**AN ACT** requiring the department of water, air and waste management to initiate and conduct a pilot program to collect and dispose of small amounts of hazardous wastes that are being stored in residences, schools, and small businesses.

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

Section 1. The department of water, air and waste management shall initiate and conduct a pilot program in at least two counties designated by the department to collect and dispose of small amounts of hazardous wastes that are being stored in residences, schools, or small businesses with five or fewer employees. The program shall be known as "Toxic Cleanup Days". The department shall promote and conduct the program and shall, or shall contract with a qualified and bonded waste handling company to, collect and properly dispose of wastes believed by the person disposing of the wastes to be hazardous. The department shall establish maximum amounts of hazardous wastes to be accepted from a person during the "Toxic Cleanup Days" program. Amounts disposed above the maximum may be subject to a fee set by the department. The department shall not assess a fee for amounts disposed below the maximum amount. The department shall designate the times and dates that wastes shall be collected. The program shall be conducted for at least two days in each of the counties designated. The department shall cooperate with local governmental units and service organizations in promoting and conducting this program including, but not limited to, assisting the local government or service organization in obtaining grants to help defray the expenses of the program. The department shall report to the general assembly by January 15, 1986 regarding the plans or results of the pilot program and the department's recommendation whether the program should be continued, expanded, or discontinued.

Approved May 6, 1985

**CHAPTER 80**  
**CUSTOM LIVESTOCK FEEDERS**  
*H.F. 741*

**AN ACT** relating to custom livestock feeders.

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

Section 1. Section 542.1, subsection 3, Code 1985, is amended to read as follows:

3. "Grain dealer" means a person who buys during any calendar month five hundred bushels of grain or more from the producers of the grain for purposes of resale, milling, or processing. However, "grain dealer" ~~shall does not be construed to mean~~ include a producer of grain who is buying grain for the producer's own use as seed or feed; a person solely engaged in buying grain future contracts on the board of trade; a person who purchases grain only for sale in a registered feed; a person engaged in the business of selling agricultural seeds regulated by chapter 199; a person buying grain only as a farm manager; ~~or~~ an executor, administrator, trustee, guardian, or conservator of an estate; ~~or~~ a bargaining agent as defined in section 542A.1; or a custom livestock feeder.

Sec. 2. Section 542.1, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Custom livestock feeder" means a person who buys grain for the sole purpose of feeding it to livestock owned by another person in a feedlot as defined in section 172D.1, subsection 6, or a confinement building owned or operated by the custom livestock feeder and located in this state.

Sec. 3. NEW SECTION. 542.21 CUSTOM LIVESTOCK FEEDER.

A custom livestock feeder shall only purchase grain from a grain producer by making payment by cash, check, or other instrument that is payable on demand. A custom livestock feeder shall not purchase grain from a grain producer using a credit-sale contract as defined in section 542.1, subsection 5.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Red Oak Express, a newspaper published in Red Oak, Iowa, and in The Daily Freeman-Journal, a newspaper published in Webster City, Iowa.

Approved May 6, 1985

I hereby certify that the foregoing Act was published in The Daily Freeman-Journal, Webster City, Iowa on May 10, 1985 and in The Red Oak Express, Red Oak, Iowa on May 17, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 81**  
**QUALIFYING FOR OFFICE**  
*S.F. 317*

**AN ACT** relating to qualifying for office.

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

Section 1. Section 63.1, Code 1985, is amended to read as follows:

**63.1 TIME.**

Each officer, elective or appointive, before entering upon the officer's duties as such, shall qualify by taking the prescribed oath and by giving, when required, a bond, which qualification shall be perfected, unless otherwise specified, before after being certified as elected but not later than noon of the second secular first day which is not a Sunday or a legal holiday in January of the first year of the term for which such the officer was elected. "Legal holiday" means those days provided in section 33.1.

Approved May 7, 1985

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**CHAPTER 82**  
**REAL ESTATE SALESPERSONS AND BROKERS**  
*S.F. 407*

**AN ACT** relating to the licensing of real estate brokers and real estate salespersons and providing for an effective date.

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

Section 1. Section 117.15, unnumbered paragraphs 3 and 4, Code 1985, are amended to read as follows:

To qualify for a license as a real estate broker, a person shall complete at least sixty contact hours of commission approved real estate education within twenty-four months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. The applicant shall have been a licensed real estate salesperson actively engaged in real estate for a period of at least twelve twenty-four months preceding the date of application, or shall have had experience substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of twelve twenty-four months,

whether as a former broker or salesperson, a manager of real estate, or otherwise. However, if the commission finds that any an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the person resides, the provisions experience requirement of this paragraph ~~shall~~ may be waived for that person by the commission.

A qualified applicant for a license as a real estate salesperson shall complete a commission approved short course in real estate education of at least thirty hours ~~approved by the commission~~ during the twelve months ~~preceeding the issuance of the license~~ prior to taking the salesperson examination.

Sec. 2. Section 602.8102, subsection 29, Code 1985, is amended by striking the subsection.

Sec. 3. This Act takes effect July 1, 1986.

Approved May 7, 1985

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## CHAPTER 83

### FARM-TO-MARKET ROAD FUND ALLOCATIONS

*S.F. 413*

**AN ACT** relating to farm-to-market road fund allocations.

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

Section 1. Section 310.27, unnumbered paragraph 2, Code 1985, is amended to read as follows:

For the purposes of this section, any sums of the farm-to-market road fund allotted to any county shall be presumed to have been "expended" when a contract has been awarded obligating the sums. When projects and their estimated costs, which are proposed to be funded from the farm-to-market road fund, are submitted to the department for approval, the department shall estimate the total funding necessary and the period during which claims for the projects will be filed. After anticipating the funding necessary for approved projects, the department may, ~~at its discretion,~~ temporarily allocate additional moneys from the farm-to-market road fund for use in any other farm-to-market projects. However, a county shall not be temporarily allocated funds for projects in excess of the county's anticipated farm-to-market road fund allocation for the current fiscal year plus the ~~two~~ four succeeding fiscal years.

Approved May 7, 1985



**CHAPTER 84**  
**SEED SELLER'S BOND**  
*S.F. 466*

**AN ACT** relating to the bonding requirements for a holder of a permit to sell seed.

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

Section 1. Section 199.16, Code 1985, is amended to read as follows:  
199.16 PERMIT HOLDER'S BOND.

It is unlawful for the permit holder of any permit to enter into a contract with a person grower who purchases agricultural seed whereby in which the permit holder agrees to repurchase the seed crop produced from the purchased seed at a price in excess of the current market price at time of delivery, unless the permit holder has on file with the department a bond, in a penal sum of twenty-five thousand dollars running to the state of Iowa, with sureties approved by the secretary, for the use and benefit of the a person holding the a repurchase contract who might have a cause of action of any nature arising from the purchase or contract. However, the aggregate liability of the surety to the person all purchasers of seed holding repurchase contracts shall not exceed the sum of the bond.

Approved May 7, 1985

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**CHAPTER 85**  
**CALCULATION OF SCHOOL ENROLLMENT INCREASES**  
*H.F. 682*

**AN ACT** relating to the calculation of enrollment for increasing enrollment school districts and providing that the Act takes effect upon its publication.

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

Section 1. Section 442.4, subsection 3, paragraph a, Code 1985, is amended to read as follows:

a. Twenty-five percent of the basic enrollment for the school year beginning July 1, 1979. However, if the basic enrollment of a school district for a budget year is more than fifteen percent higher than the basic enrollment of the district for the base year, the school district's basic enrollment for the budget year shall be used thereafter for the calculation required under this paragraph in lieu of using the basic enrollment for the school year beginning July 1, 1979.

Sec. 2. Section 442.28, unnumbered paragraphs 1 and 2, Code 1985, are amended to read as follows:

If a district's actual enrollment for the budget year, determined under section 442.4, is higher than its budget enrollment for the budget year, the district is entitled to an advance from the state of an amount equal to its district cost per pupil less the amount per pupil for special education support services, computed as a part of district cost under the provisions of section 442.7 for the budget year multiplied by the difference between the actual enrollment for the budget year and the budget enrollment for the budget year. However, if a district's actual enrollment for the budget year is more than fifteen percent higher than its basic enrollment for the budget year, the advance shall be calculated using seventy-five percent of the difference between the district's actual enrollment for the budget year and its basic enrollment for the budget year. The advance shall be miscellaneous income.

If a district receives an advance under this section for a budget year, the state comptroller shall determine the amount of the advance which would have been met by local property tax revenues if the actual enrollment for the budget year or the budget enrollment for the budget year plus seventy-five percent of the difference between the actual enrollment for the budget year and the basic enrollment for the budget year, had been used in determining district cost for that budget year, shall reduce the district's total state school aids available under this chapter for the next following budget year by the amount so determined, and shall increase the district's tax levy computed under section 442.9, for the next following budget year by the amount necessary to compensate for the reduction in state aid, so that the local property tax for the next following year will be increased only by the amount which it would have been increased in the budget year if the actual enrollment calculated in this section could have been used to establish the levy.

Sec. 3. This Act takes effect from and after its publication in *The Keota Eagle*, a newspaper published in Keota, Iowa, and in *The Fonda Times*, a newspaper published in Fonda, Iowa, and is retroactive to March 1, 1985. The Act takes effect for computations required for state aid and property tax for school districts for the school year beginning July 1, 1985.

Approved May 7, 1985

I hereby certify that the foregoing Act was published in *The Keota Eagle*, Keota, Iowa on May 16, 1985 and in *The Fonda Times*, Fonda, Iowa on May 16, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 86**  
**SCHEDULES OF CONTROLLED SUBSTANCES**  
*S.F. 376*

**AN ACT** reclassifying and adding certain controlled substances to the schedules in chapter 204.

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

Section 1. Section 204.204, subsection 2, paragraph ar, Code 1985, is amended by striking the paragraph.

Sec. 2. Section 204.204, subsection 5, paragraph b, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Methaqualone.

Sec. 3. Section 204.206, subsection 3, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. w. Sufentanil.

Sec. 4. Section 204.206, subsection 5, paragraph b, Code 1985, is amended by striking the paragraph.

Sec. 5. Section 204.210, subsection 3, paragraphs a through x, Code 1985, are amended by striking the paragraphs and inserting in lieu thereof the following:

- a. Alprazolam.
- b. Barbital.
- c. Bromazepam.
- d. Camazepam.
- e. Chloral betaine.
- f. Chloral hydrate.
- g. Chlordiazepoxide.
- h. Clobazam.
- i. Clonazepam.
- j. Clorazepate.
- k. Clotiazepam.
- l. Cloxazolam.
- m. Delorazepam.
- n. Diazepam.
- o. Estazolam.
- p. Ethchlorvynol.
- q. Ethinamate.
- r. Ethyl Loflazepate.
- s. Fludiazepam.
- t. Flunitrazepam.
- u. Flurazepam.
- v. Halazepam.

- w. Haloxazolam.
- x. Ketazolam.
- y. Loprazolam.
- z. Lorazepam.
- aa. Lormetazepam.
- ab. Mebutamate.
- ac. Medazepam.
- ad. Meprobamate.
- ae. Methohexital.
- af. Methylphenobarbital (mephobarbital).
- ag. Nimetazepam.
- ah. Nitrazepam.
- ai. Nordiazepam.
- aj. Oxazepam.
- ak. Oxazolam.
- al. Paraldehyde.
- am. Petrichloral.
- an. Phenobarbital.
- ao. Prazepam.
- ap. Pinazepam.
- aq. Temazepam.
- ar. Tetrazepam.
- as. Triazolam.

Sec. 6. Section 204.212, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 3.** Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

- a. Buprenorphine.

Approved May 8, 1985

**CHAPTER 87**  
**REGISTRATION OF TRANSFERRED VEHICLES**  
*S.F. 387*

**AN ACT** allowing a person to whom ownership of a vehicle has been transferred by a spouse, parent or child of the person, or by operation of law upon inheritance, devise or bequest, from the person's spouse, parent or child, or by a former spouse pursuant to a decree of dissolution of marriage, a credit to be applied to the registration fee of the transferred vehicle, requiring rules to be adopted to provide for the assignment of registration plates to the person, requiring certain counties to send a statement relating to due registration fees to owners of motor vehicles and allowing a refund of unexpired registration fees for certain vehicles.

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

Section 1. Section 321.34, subsection 1, Code 1985, is amended to read as follows:

1. **PLATES ISSUED.** The county treasurer upon receiving application, accompanied by proper fee, for registration of a vehicle shall issue to the owner one registration plate for a motorcycle, motorized bicycle, truck tractor, trailer, or semitrailer and two registration plates for every other motor vehicle. The registration plates, including special registration plates, shall be assigned to the owner of a vehicle. ~~Whenever~~ When the owner of a registered vehicle transfers or assigns ownership of ~~such~~ the vehicle to another person, the owner shall remove the registration plates from the vehicle. The owner shall forward the plates to the county treasurer where the vehicle is registered or the owner may have the plates assigned to another vehicle within thirty days after transfer, upon payment of the fees required by law. The owner shall immediately affix registration plates retained by the owner to another vehicle owned or acquired by ~~such person~~ the owner, providing the owner complies with section 321.46. The department shall adopt rules providing for the assignment of registration plates to the transferee of a vehicle for which a credit is allowed under section 321.46, subsection 6.

Sec. 2. Section 321.40, Code 1985, is amended by adding the following new unnumbered paragraph immediately following unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. On or before the fifteenth day of the month of expiration of a vehicle's registration the county treasurer shall send a statement by mail of fees due to the appropriate owner of record. The statement shall be mailed to the most current address of record, showing information sufficient to identify the vehicle and a listing of the various fees as appropriate. Failure to receive a statement shall have no effect upon the accrual of penalty at the appropriate date. This paragraph applies to counties with a population of one hundred thousand or more. This paragraph applies to any county with a population of less than one hundred thousand at the discretion of the county treasurer.

Sec. 3. Section 321.46, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. An applicant for a new registration for a vehicle transferred to the applicant by a spouse, parent or child of the applicant, or by operation of law upon inheritance, devise or bequest, from the applicant's spouse, parent or child, or by a former

spouse pursuant to a decree of dissolution of marriage, is entitled to a credit to be applied to the registration fee for the transferred vehicle. A credit shall not be allowed unless the vehicle to which the credit applies is registered within the time specified under subsection 1. The credit shall be computed on the basis of the number of unexpired months remaining in the registration year of the former owner computed from the date the vehicle was transferred, computed to the nearest whole dollar. The credit shall not exceed the amount of the registration fee for the transferred vehicle. When the amount of the credit is computed to be an amount of less than five dollars, the credit shall be disallowed. The credit shall not be sold, transferred, or assigned to any other person.

Sec. 4. Section 321.126, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Refunds of ~~current unexpired vehicle~~ registration fees ~~paid for the registration of motor vehicles~~ shall be allowed in accordance with this section, except that no refund shall be allowed and paid if the unused portion of the fee is less than five dollars. Subsections 1 and 2 shall do not apply to motor vehicles registered by the county treasurer. The refunds shall be made as follows:

Sec. 5. Section 321.126, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** If a vehicle is sold or junked within thirty days after a replacement vehicle has been purchased and the title and registration for the replacement vehicle issued, the owner in whose name the vehicle was registered may within thirty days after the date of sale or junking make claim to the department for a refund of the sold or junked vehicle's registration fee subject to the following limitations:

a. The refund shall be computed on the basis of the number of unexpired months remaining in the registration year at the time the vehicle was sold or junked and shall be rounded to the nearest whole dollar. Section 321.127, subsection 1, does not apply.

b. The refund shall not exceed the amount of the registration fee for the replacement vehicle and shall only be allowed if the replacement vehicle was registered within the time specified for registration under section 321.46, subsection 1.

c. The refund shall only be allowed if the owner provides the credit copy of the registration receipt for the vehicle sold or junked and a photocopy of the registration receipt for the replacement vehicle.

d. This subsection does not apply to vehicles registered under chapter 326.

Sec. 6. Section 321.127, Code 1985, is amended to read as follows:

**321.127 AMOUNT PAYMENT OF REFUND.**

1. The refund of the registration fee for motor vehicles shall be computed on the basis of ~~one-fourth of the annual registration fee multiplied by the number of remaining quarters of unexpired months remaining in the registration year from date of filing of the claim for refund with the county treasurer, computed to the nearest quarter dollar.~~

2. The department, unless reasonable grounds exist for delay, shall make refund on or before the ~~fifteenth last day of the quarter month following the quarter month in which the claim is filed with the department.~~

3. For trailers or semitrailers issued a multiyear registration plate a refund shall be paid equal to the annual fee for twelve months times the remaining number of complete registration years.

4. Refunds for motor vehicles registered for prorated under chapter 326 shall be paid on the basis of unexpired complete calendar months remaining in the registration year from the date the claim is filed with the department.

Approved May 8, 1985

**CHAPTER 88**  
**JUVENILE DELINQUENCY INVESTIGATION**  
*S.F. 467*

**AN ACT** relating to the predisposition investigation and report in a juvenile delinquency proceeding.

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

Section 1. Section 232.48, Code 1985, is amended to read as follows:

**232.48 PREDISPOSITION INVESTIGATION AND REPORT.**

1. The court shall not make a disposition of the matter following the entry of an order of adjudication pursuant to section 232.47 until a predisposition report has been submitted to and considered by the court.

2. The After a petition is filed, the court may shall direct a juvenile court officer or any other agency or individual to conduct a predisposition investigation and to prepare a predisposition report. The investigation and report shall cover all of the following:

- a. The social history, environment and present condition of the child and the child's family.
- b. The performance of the child in school.
- c. The presence of child abuse and neglect histories, learning disabilities, physical impairments and past acts of violence.
- d. Other matters relevant to the child's status as a delinquent, treatment of the child or proper disposition of the case.

2 3. A predisposition investigation shall not be conducted prior to the adjudication of the child without the consent of the child and the child's counsel. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing without the consent of the child and the child's counsel.

3 4. A predisposition report shall not be disclosed except as provided in this section and in division VIII IX of this chapter. Prior to the dispositional hearing, the The court shall permit the child's attorney to inspect any the predisposition report to be considered prior to consideration by the court in making a disposition. The court may in its discretion order counsel not to disclose parts of the report to the child, or to the child's parent, guardian, guardian ad litem, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the child.

Approved May 8, 1985

**CHAPTER 89**  
**ELIGIBILITY FOR PHARMACY EXAM**  
*S.F. 328*

**AN ACT** relating to the eligibility of graduates of colleges of pharmacy located outside the United States to take the licensure exam in Iowa.

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

Section 1. Section 155.9, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~No~~ A college of pharmacy shall not be approved by the pharmacy examiners unless the college is accredited by the American council on pharmaceutical education.

Sec. 2. Section 155.9, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An applicant who is a graduate of a school or college of pharmacy located outside the United States but who is otherwise qualified to apply for a license to practice pharmacy in this state may be deemed to have satisfied the requirements of section 155.5, subsection 1, by verification to the board of the applicant's academic record and graduation status, and by meeting other requirements which the board may establish by rule. The board may require the applicant to pass an examination or examinations given or approved by the board to establish proficiency in English and shall require the applicant to pass an examination to establish the equivalency of the applicant's education with qualified graduates of a degree program defined in section 155.5, subsection 1, as a prerequisite for taking the licensure examination provided in section 155.5, subsection 3.

Approved May 8, 1985



**CHAPTER 90****BEER AND LIQUOR CONTROL DEPARTMENT OFFICERS***S.F. 445*

**AN ACT** exempting the director, deputy director and two administrative heads of the Iowa beer and liquor control department from the state merit system.

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

Section 1. Section 19A.3, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 24.** The director, deputy director, the administrative head of the division of product management, the administrative head of the division of store management, and occasional and part-time employees of the Iowa beer and liquor control department.

Sec. 2. Section 123.20, subsection 5, Code 1985, is amended to read as follows:

5. To appoint vendors, clerks, agents, or other employees required for carrying out the provisions of this chapter; to dismiss such employees for cause; to assign such employees to such divisions as may be created by the director within the department; and to designate their title, duties, and powers. All employees of the department, ~~except occasional or part-time employees and the director,~~ shall be are subject to the provisions of chapter 19A unless exempt under section 19A.3.

Approved May 8, 1985

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**CHAPTER 91****FLOOD PLAIN MAPPING PLAN***S.F. 511*

**AN ACT** to extend the time for the completion of the flood plain mapping plan.

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

Section 1. Section 455B.262, subsection 1, Code 1985, is amended to read as follows:

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single

agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1985, and ending December 31, 2004, utilizing a data base developed and managed by the Iowa geological survey, and to prepare a general plan of water allocation in this state considering the quantity and quality of water resources available in this state designed to meet the specific needs of the water users. The department shall also develop and the commission shall adopt no later than ~~January 1, 1985~~ June 30, 1986, a plan for delineation of flood plain and floodway boundaries for selected stream reaches in the various river basins of the state. Selection of the stream reaches and assignment of priorities for mapping of the selected reaches shall be based on consideration of flooding characteristics, the type and extent of existing and anticipated flood plain development in particular stream reaches, and the needs of local governmental bodies for assistance in delineating flood plain and floodway boundaries. The plan of flood plain mapping shall be for the period from ~~January 1, 1985~~ June 30, 1986, to December 31, 2004. After the commission adopts a plan of flood plain mapping, the department shall submit a progress report and proposed implementation schedule to the general assembly biennially. The commission may modify the flood plain mapping plan as needed in response to changing circumstances.

Approved May 8, 1985

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**CHAPTER 92**  
CLAIMS IN INSURED ESTATES  
*S.F. 423*

**AN ACT** relating to claims in estates for which there is insurance coverage.

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

Section 1. Section 633.410, Code 1985, is amended to read as follows:

**633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE.**

All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within four months after the date of the second publication of the notice to creditors. However, the personal representative may waive this limitation on filing. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, or claimants entitled to equitable relief due to peculiar circumstances.

Approved May 8, 1985

**CHAPTER 93****GARNISHED ACCOUNTS OF SUPERVISED FINANCIAL ORGANIZATIONS***S.F. 514*

**AN ACT** relating to garnished accounts of supervised financial organizations.

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

Section 1. Section 642.22, Code 1985, is amended to read as follows:

**642.22 VALIDITY OF GARNISHMENT NOTICE.**

1. A notice of garnishment served upon a garnishee is effective without serving another notice until the earliest of the following:

1 a. The annual maximum permitted to be garnished under section 642.21 has been withheld.

2 b. The writ of execution expires.

3 c. The judgment is satisfied.

4 d. The garnishee is served with a notice that the garnishment shall cease.

2. A supervised financial organization, as defined in section 537.1301, subsection 41, which is garnished for an account of a defendant, after paying the sheriff any amounts then in the account, shall monitor the account for any additional amounts at least monthly while the garnishment notice is effective.

Approved May 8, 1985

**CHAPTER 94**  
**ELECTION TO BECOME A SENIOR JUDGE**  
*S.F. 515*

**AN ACT** relating to the election to become a senior judge.

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

Section 1. Section 602.9203, subsection 1, Code 1985, is amended to read as follows:

1. A supreme court judge, court of appeals judge, district judge or district associate judge, who qualifies under subsection 2 may become a senior judge by filing with the clerk of the supreme court a written election in the form specified by the court administrator. The election shall be filed ~~not later than~~ within six months of the date of retirement.

Sec. 2. Section 602.9203, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. e. Submits evidence to the satisfaction of the supreme court that since the date of retirement the judicial officer has not engaged in the practice of law.

Approved May 8, 1985

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**CHAPTER 95**  
**URBAN REVITALIZATION HEARING**  
*S.F. 355*

**AN ACT** relating to the publication of notice of a hearing on an amendment to an urban revitalization plan.

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

Section 1. Section 404.2, subsection 7, Code 1985, is amended to read as follows:

7. The city has adopted the proposed or amended plan, ~~as the case may be,~~ for the revitalization area after the requisite number of hearings. The city may subsequently amend this plan by following the procedures in this section after a hearing. Notice of the hearing shall be published as provided in section 362.3, except that at least seven days' notice must be given and the public hearing shall not be held earlier than the next regularly scheduled city council meeting following the published notice.

Approved May 9, 1985

**CHAPTER 96**  
**DECLARATION OF VALUE**  
*S.F. 359*

**AN ACT** relating to the declaration of value for real estate transfers, and providing an effective date.

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

Section 1. Section 428A.1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

At the time each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. A declaration of value is not required for those instruments described in section 428A.2, subsections 2 to 13 and 16 to 18, or ~~where any if a~~ transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 172C.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. The county recorder shall not record the declaration of value, but shall enter on the declaration of value information the director of revenue requires for the production of the sales/assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value the information the director of revenue requires for the production of the sales/assessment ratio study and transmit all declarations one copy of each declaration of value to the director of revenue, at times as directed by the director of revenue. The assessor shall retain one copy of each declaration of value for three years from December 31 of the year in which the transfer of realty for which the declaration was filed took place. The director of revenue shall, upon receipt of the information required to be filed under this chapter by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 172C.1.

Sec. 2. This Act takes effect January 1 following its enactment.

Approved May 9, 1985

**CHAPTER 97**  
**REAL ESTATE TRANSFER FEE**  
*S.F. 393*

**AN ACT** relating to the fee for transferring real estate by the county auditor.

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

Section 1. Section 331.507, subsection 2, paragraph a, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

a. For a transfer of property made in the transfer records, five dollars of\* each separate parcel of real estate described in a deed, or transfer of title certified by the clerk of the district court. However, the fee shall not exceed fifty dollars for a transfer of property which is described in one instrument of transfer.

(1) For the purposes of this paragraph, a parcel of real estate includes:

(a) For real estate located outside of the corporate limits of a city, all contiguous land lying within a numbered section.

(b) For real estate located within the corporate limits of a city, all contiguous land lying within a platted block or subdivision.

(2) Within a numbered section, platted block, or subdivision, land separated only by a public street, alley, or highway remains contiguous.

Approved May 9, 1985

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\*According to enrolled Act

**CHAPTER 98**  
**MOBILE HOME CONVERTED FROM REAL PROPERTY**  
*S.F. 452*

**AN ACT** authorizing conversion of certain real property to a mobile home.

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

Section 1. NEW SECTION. 135D.27 CONVERSION TO MOBILE HOME.

1. A mobile home converted to real estate under section 135D.26 may be reconverted to a mobile home as provided in this section.

2. If the vehicular frame of the former mobile home can be modified to return it to the status of a mobile home, the owner may apply to the county treasurer as provided in section 321.20 for a certificate of title for the mobile home. If a mortgage exists on the real estate, a security interest in the mobile home shall be given to the secured party and noted on the certificate of title with the same priority or a higher priority than the secured party's mortgage interest. A reconversion shall not occur without the written consent of the mortgagee.

3. After complying with subsection 2 and receipt of the title, the owner shall notify the assessor of the reconversion. The assessor shall remove the assessed valuation of the mobile home from assessment rolls as of the succeeding January 1 when the mobile home becomes subject to taxation as provided under section 135D.24.

Sec. 2. Section 135D.26, subsection 1, paragraph b, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Modification of the vehicular frame for placement on a permanent foundation.

Sec. 3. Section 321.30, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 11. In the case of a mobile home converted from real estate, real estate taxes which are delinquent.

Approved May 9, 1985

**CHAPTER 99**  
**GENDER AND MARITAL STATUS DISCRIMINATION**  
*S.F. 224*

**AN ACT** relating to discrimination on the basis of gender and marital status.

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

Section 1. Section 31.4, Code 1985, is amended to read as follows:

**31.4 MOTHER'S DAY – ~~FATHER'S DAY~~.**

The governor of this state is hereby authorized and requested to issue annually a proclamation calling upon our state officials to display the American flag on all state and school buildings, and the people of the state to display the flag at their homes, lodges, churches, and places of business, on the second Sunday in May, known as Mother's Day, and on the third Sunday in June, known as Father's Day, as a public expression of reverence for the homes of our state, and to urge the celebration of Mother's Day and Father's Day in ~~said~~ the proclamation in such a way as will deepen home ties, and inspire better homes and closer union between the commonwealth, its homes, and their children.

Sec. 2. Section 96.5, subsection 1, paragraph f, Code 1985, is amended to read as follows:

f. ~~The individual is the principal support of the individual's family, or is a surviving spouse, a legally separated spouse, or a single person, and the individual~~ left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons (if so found by the department), and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

Sec. 3. Section 222.38, Code 1985, is amended to read as follows:

**222.38 DELIVERY OF PERSON TO SCHOOL OR SPECIAL UNIT.**

The court may for the purpose of committing ~~said~~ a person direct the clerk to authorize the employment of one or more assistants. ~~No~~ If a mentally retarded female shall be person is taken to an institution, hospital-school, or special unit ~~by any male person not the female's husband, father, brother, or son without the attendance of a woman of good character and mature age at least one attendant shall be of the same sex.~~

Sec. 4. Section 225.18, Code 1985, is amended to read as follows:

**225.18 ATTENDANTS.**

The court or clerk may, ~~in the court's or clerk's discretion,~~ appoint ~~some~~ a person to accompany the committed public patient or the voluntary public patient or the committed private patient from the place where the patient may be to the state psychiatric hospital of the state ~~University~~ university at Iowa City, or to accompany ~~such~~ the patient from the ~~said~~ hospital to



~~such a place as may be designated by the court or clerk. If the a patient be a female, the person appointed to accompany her must be a woman is moved pursuant to this section, at least one attendant shall be of the same sex.~~

Sec. 5. Section 234.9, Code 1985, is amended to read as follows:

234.9 COUNTY BOARD OF SOCIAL WELFARE.

The board of supervisors of each county shall appoint a county board of social welfare, which shall consist of three members in counties of less than thirty-three thousand population, not more than two of whom shall belong to the same political party, and ~~at least one of whom shall be a woman; and which both sexes shall be represented.~~ The county board shall consist of five members in counties of more than thirty-three thousand population, not more than three of whom shall belong to the same political party, and at least one of whom shall be a woman both sexes shall be represented. At the discretion of the board of supervisors one or more of ~~said~~ the members may be chosen from the membership of ~~said~~ the board of supervisors. Annually the board of supervisors shall appoint the members of the county board who shall serve for one year and until their successors are appointed. If a vacancy ~~shall occur~~ occurs in the membership of the county board, other than by the expiration of a term, a member shall be appointed to fill ~~such~~ the vacancy for the unexpired term. All appointments, ~~made as herein provided,~~ shall be made a part of the regular proceedings of the board of supervisors and shall be filed with the county auditor and with the state director.

Sec. 6. Section 238.44, Code 1985, is repealed.

Sec. 7. Section 258.7, subsection 17, Code 1985, is amended to read as follows:

17. ~~Are women with~~ Have backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment and of sex stereotyping in vocational education, including ~~women persons~~ persons who are members of minority groups and ~~members of both sexes~~ and who have, in addition to such backgrounds and experiences, special knowledge of the problems of discrimination in job training and employment ~~against women who are members of such groups.~~

Sec. 8. Section 595.19, unnumbered paragraph 1 and subsections 1 and 2, Code 1985, are amended to read as follows:

Marriages between the following persons ~~shall be who are related by blood~~ are void:

1. Between a man and his father's sister, mother's sister, ~~father's widow, wife's mother,~~ daughter, ~~wife's daughter, son's widow,~~ sister, son's daughter, daughter's daughter, ~~son's son's widow, daughter's son's widow,~~ brother's daughter or sister's daughter.

2. Between a woman and her father's brother, mother's brother, ~~mother's husband,~~ husband's father, son, ~~husband's son, daughter's husband,~~ brother, son's son, daughter's son, ~~son's daughter's husband, daughter's daughter's husband,~~ brother's son, or sister's son.

Sec. 9. Section 598.14, unnumbered paragraph 1, Code 1985, is amended to read as follows:

In making temporary orders, the court shall take into consideration the age and sex of the applicant, the physical and pecuniary condition of the parties, and ~~such~~ other matters as are pertinent, which may be shown by affidavits, as the court may direct; ~~however, the.~~ The hearing on the application shall be limited to matters set forth in ~~such~~ the application, the affidavits of the parties, and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected ~~therewith~~ with the petition or answer.

Sec. 10. Section 601F.2, Code 1985, is amended to read as follows:

**601F.2 MEMBERSHIP.**

The committee shall be composed of a minimum of twenty-four members appointed by the governor and such additional members as the governor may appoint. Insofar as practicable, the committee shall consist of representatives of industry, labor, business, agriculture, federal, state, and local government, and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, women's, and other professional groups and organizations. Members shall be appointed representing every geographic center and employment area of the state and shall include members of both sexes.

Sec. 11. Section 659.4, Code 1985, is amended to read as follows:

**659.4 CANDIDATE FOR OFFICE – RETRACTION – TIME.**

If the plaintiff was a candidate for office at the time of the libelous publication, no retraction shall be available unless published in a conspicuous place on the editorial page, nor if the libel was published within two weeks next before the election; ~~provided that this.~~ This section and sections 659.2 and 659.3 shall do not apply to any libel imputing unchastity to a woman sexual misconduct to any persons.

Sec. 12. Section 674.6, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If the petitioner is married, the spouse petitioner must join in the petition or file written consent give legal notice to the spouse, in the manner of an original notice, of with the filing of the petition.

Approved May 9, 1985

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**CHAPTER 100**  
**SUPPORT OBLIGATIONS**  
*S.F. 244*

**AN ACT** for the collection of support obligations relating to the posting of security, the ordering of assignments of income by the clerk of the district court or the child support recovery unit, the attachment of liens, and the modification of certain limitations on paternity actions.

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

Section 1. Section 252A.6, subsection 11, Code 1985, is amended to read as follows:

11. If, on the return day of the summons, the respondent appears at the time and place specified therein in the summons and fails to answer the petition or admits the allegations thereof of the petition, or, if, after a hearing has been duly held by the court in the responding state in accordance with the provisions of this section, such the court has found and determined that the prayer of the petitioner, or any part thereof of the prayer, is supported by the

evidence adduced in the proceeding, and that the petitioner is in need of and entitled to support from the respondent, the court shall make and enter an order directing the respondent to furnish support to the petitioner and to pay therefor such a sum as the court shall determine, having due regard to the parties' means and circumstances. An exemplified A certified copy of such the order shall be transmitted by the court to the court in the initiating state and such the copy shall be filed with and made a part of the records of such the court in such the proceeding. The court shall place the respondent on probation on such terms and conditions as the court may deem proper or necessary to assure faithful compliance by the respondent with such order. The court shall also have power to require the respondent to furnish recognizance in the form of a cash deposit or surety bond in such amount as the court may deem proper and just to assure the payment of the amount required to be paid by the respondent for the support of the petitioner. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require the respondent to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the respondent's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 2. NEW SECTION. 252C.11 SECURITY FOR PAYMENT OF SUPPORT – FORFEITURE.

Upon entry of a court order or upon the failure of a person to make payments pursuant to a court order, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support obligation. Upon the person's failure to pay the support obligation under the court order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 3. Section 252D.1, subsections 2 and 3, Code 1985, are amended to read as follows:

2. If support payments ordered under section 252A.6, subsection 12, section 598.21, or section 675.25, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2 are not paid to the clerk of the district court pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, the clerk of the district court or the child support recovery unit established under section 252B.2 may certify a default to the court. The court shall order the defaulting person to assign to the clerk that portion of the shall order an assignment of income and notify an employer, trustee, or other payor by certified mail of the order of the assignment of income requiring the withholding of specified sums to be deducted from the delinquent person's periodic earnings, trust income, or other income sufficient to pay the support obligation and, except for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, requiring the payment of such sums to the clerk of the district court. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the order by certified mail. The amount of an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b). The assignment of income has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced. The clerk of the district court or the child support recovery unit may modify or revoke the order upon the request of the child support recovery unit and may modify or revoke the order at any other time the assignment of income on the full payment of the delinquency or in an instance where the amount being withheld exceeds the amount specified in 15 U.S.C. § 1673(b), or may revoke the assignment of income upon the termination of parental rights, emancipation, death or majority of the child, or upon a change of custody.

3. A person entitled by court order to receive support payments or a person responsible for enforcing such a court order may petition the clerk of the district court for an assignment of income. If the petition is verified and establishes that support payments are delinquent in an amount equal to the payment for one month and if the clerk of the district court determines, after providing an opportunity for a hearing, that notice of the mandatory assignment of income as provided in section 252D.3 has been given, the clerk of the district court shall ~~declare a default and~~ order an assignment of income under subsection 2.

Sec. 4. Section 252D.3, Code 1985, is amended to read as follows:

**252D.3 NOTICE OF ASSIGNMENT.**

All ~~court~~ orders for support entered on or after July 1, 1984 shall notify the person ordered to pay support of the mandatory assignment of income required under section 252D.1 ~~upon the person's default~~. However, for ~~court~~ orders for support entered before July 1, 1984, the clerk of the district court, the child support recovery unit, or the person entitled by the ~~court~~ order to receive the support payments, shall notify each person ordered to pay support under such orders of the mandatory assignment of income required under section 252D.1 ~~upon the person's default~~. The notice shall be sent by certified mail to the person's last known address or the person shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to the filing of a petition under section 252D.1, subsection 3 or the ~~entering~~ ordering of a default an assignment of income under section 252D.1, subsection 2 or 3. A person ordered to pay support may waive the right to receive the notice at any time.

Sec. 5. Section 252D.4, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** An employer, trustee, or other payor who receives an order of assignment pursuant to section 252D.1, subsection 2, is liable for the amount which the employer, trustee, or other payor willfully fails to withhold from amounts due the person named in the order, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the employer, trustee, or other payor.

Sec. 6. Section 252D.5, Code 1985, is amended to read as follows:

**252D.5 OTHER REMEDIES.**

The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing ~~child~~ support obligations.

Sec. 7. Section 598.22, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Upon entry of an order for support or upon the failure of a person to make payments pursuant to an order for support, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the person's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 8. Section 624.23, subsection 1, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Judgments for child or spousal support in the appellate or district courts of this state or in the circuit or district court of the United States within this state and administrative orders for child or spousal support entered under chapter 252C, are liens upon the real property owned by the defendant at the time of the entering of the judgment or order and upon the real property subsequently acquired by the defendant. Upon full satisfaction of a judgment or order for child or spousal support, the party entitled to the support shall acknowledge the satisfaction upon request pursuant to section

624.37. Notwithstanding subsection 3, a lien established under this subsection on a judgment or order for support is not dischargeable in bankruptcy.

Sec. 9. Section 624.24, Code 1985, is amended to read as follows:

624.24 WHEN JUDGMENT LIEN ATTACHES.

When If the real estate lies in the county wherein in which the judgment of the district court of this state or of the circuit or district courts of the United States was entered in the judgment docket and lien index kept by the clerk of the district court having jurisdiction, the lien shall attach attaches from the date of such the entry of judgment, but. Except in cases of support, if in another it will the judgment and real estate are in different counties, the lien does not attach until an attested copy of the judgment is filed in the office of the clerk of the district court of the county in which the real estate lies. In cases of support, the lien attaches from the entry of the judgment. An index of support lien shall be maintained by the clerk of the district court and the child support recovery unit shall maintain an index of those support liens held by the child support recovery unit.

Sec. 10. Section 675.25, Code 1985, is amended to read as follows:

675.25 FORM OF JUDGMENT.

The judgment shall be for annual periodic amounts, equal or varying, having regard to the obligation of the father under section 675.1, as the court directs, until the child reaches the age of eighteen years majority or until the child finishes high school, if after majority. The payments may be required to be made at such periods or intervals as the court directs. The court may order the father to pay amounts the court deems appropriate for past and future support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

Sec. 11. NEW SECTION. 675.42 SECURITY FOR PAYMENT OF SUPPORT — FORFEITURE.

Upon entry of an order for support or upon the failure of a father to make payments pursuant to an order for support, the court may require the father to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the father's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 12. Sections 675.3, 675.26, and 675.33, Code 1985, are repealed.

Approved May 9, 1985

**CHAPTER 101**  
**SALE OF ANTIQUE AUTOS**  
*S.F. 290*

**AN ACT** relating to the sale of antique motor vehicles.

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

Section 1. Section 321.115, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The sale of a motor vehicle twenty-five years old or older which is primarily of value as a collector's item and not as transportation is not subject to chapter 322 and any person may sell such a vehicle at retail or wholesale without a license as required under chapter 322.

Approved May 9, 1985

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**CHAPTER 102**  
**BOILER INSPECTION FEES**  
*H.F. 359*

**AN ACT** relating to fees for boiler inspections.

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

Section 1. Section 89.7, subsections 1 and 3, Code 1985, are amended to read as follows:

1. The inspection required by this chapter shall not be made by the commissioner ~~where any if an~~ owner or user of ~~any~~ equipment specified by this chapter obtains an inspection by a representative of a reputable insurance company and obtains a policy of insurance upon the equipment from that insurance company. The representative conducting the inspection shall be commissioned by the commissioner as a special inspector for the year during which the inspection occurs and shall meet such other requirements as the commissioner may by rule establish. The commission shall be valid for one year and the special inspector shall pay a ~~ten-dollar~~ fee for the issuance of the commission. The commissioner shall establish the amount of the fee by rule.

3. Upon such showing and the payment of a fee ~~of five dollars for each one-year inspection and ten dollars for each two-year inspection~~, the commissioner shall issue a certificate of inspection by the bureau of labor, which shall be valid only for the period specified in section 89.3. The commissioner shall establish the amount of the fee by rule.

Sec. 2. Section 89.8, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**89.8 FEES FOR INSPECTION.**

The commissioner shall adopt rules to charge and collect fees for inspection of boilers and pressure units by the boiler inspector. Fees may be set by rule not more than once each year. Fees established by the commissioner shall be based upon the costs of administering the provisions of this chapter, and shall give due regard to the time spent by bureau of labor personnel in performing duties, and to any travel expenses incurred.

Approved May 14, 1985

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**CHAPTER 103**  
**GIZZARD SHAD AS BAIT**  
*H.F. 428*

AN ACT relating to the use of gizzard shad as bait.

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

Section 1. Section 109.80, unnumbered paragraph 2, Code 1985, is amended to read as follows:

"Minnows" ~~shall be~~ are defined as chubs, shiners, suckers, dace, stonerollers, mud-minnows, redhorse, blunt-nose, and fat-head minnows. Green sunfish and orange-spotted sunfish and gizzard shad may also be taken as bait.

Sec. 2. Section 109.82, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person shall not possess live gizzard shad at any lake.

Approved May 14, 1985

**CHAPTER 104**  
**HUNTER SAFETY COURSE**  
*H.F. 453*

**AN ACT** relating to the hunter safety course requirements in applying for a hunting license.

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

Section 1. Section 110.27, subsections 1 and 2, Code 1985, are amended to read as follows:

1. A hunting license shall not be issued to a person born after January 1, 1967 by the commission, a county recorder, or a depository authorized to issue hunting licenses, unless the person exhibits a certificate showing satisfactory completion of a hunter safety and ethics education course approved by the commission or a hunting license issued by this state after July 1, 1983. A certificate of completion from an approved hunter safety education course shall not be issued to ~~any~~ a person under twelve years of age. A certificate of completion from an approved hunter safety and ethics education course issued in this state since 1960, by another state, or by a province of Canada, is valid for the requirements of this section, provided the applicant is twelve years of age or older.

2. A certificate of completion shall not be issued to a person who has not satisfactorily completed a minimum of ~~eight~~ ten hours of training in an approved hunter safety and ethics education course. The commission shall establish the curriculum for the first ~~eight~~ ten hours of an approved hunter safety and ethics education course offered in this state. Upon completion of the ~~eight-hour~~ ten-hour curriculum, a certificate of completion shall be awarded to the applicant. An examination shall not be required for the award of the certificate.

Approved May 14, 1985



**CHAPTER 105**  
**BOILER INSPECTIONS**  
*H.F. 501*

**AN ACT** relating to the inspection of boilers and unfired steam pressure vessels.

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

Section 1. Section 89.3, subsections 6 and 7, Code 1985, are amended to read as follows:

6. Each boiler of one hundred thousand pounds per hour or more capacity, unfired steam pressure vessel or regulated appurtenance used or proposed to be used within this state, ~~which has~~ contains only water subject to internal continuous water treatment under the direct supervision of a graduate engineer or chemist, or one having equivalent experience in the treatment of boiler water where the ~~said~~ water treatment is for the purpose of controlling and limiting serious corrosion and other deteriorating factors, and with respect to which ~~boiler vessel~~ the commissioner has determined that the owner or user has complied with the record-keeping requirements hereafter prescribed in this chapter, shall be inspected at least once every two years internally and externally while not under pressure, and at least once every two years externally while under pressure. At any time a hydrostatic test ~~shall be~~ is deemed necessary to determine the safety of a ~~boiler vessel~~, the tests shall be conducted by the owner or user of the equipment under the supervision of the commissioner.

7. The owner or user of a boiler of one hundred thousand pounds per hour or more capacity, unfired steam pressure vessel or regulated appurtenance desiring to qualify for biennial inspection shall keep available for examination by the commissioner accurate records showing the date and actual time the ~~boiler vessel~~ is out of service and the reason ~~or reasons therefor~~ it is out of service, and the chemical physical laboratory analyses of samples of the ~~boiler vessel~~ water taken at regular intervals of not more than forty-eight hours of operation as will adequately show the condition of the water and any elements or characteristics ~~thereof~~ of the water which are capable of producing corrosion or other deterioration of the ~~boiler vessel~~ or its parts.

Approved May 14, 1985

**CHAPTER 106**  
**ROAD CONSTRUCTION AND SOIL CONSERVATION**  
*H.F. 514*

**AN ACT** to require highway authorities to submit annual road construction programs to county soil conservation district commissioners for review and recommendations relating to soil erosion controls and drainage controls.

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

Section 1. Sections 2 through 6 of this Act shall be codified as a new division of chapter 306.

Sec. 2. NEW SECTION. 306.50 CONSTRUCTION PROGRAM NOTICE.

The appropriate highway authority shall provide copies of its annual construction program to the soil conservation district commissioner's office in each county. The soil conservation district commissioner's office shall review the construction program submitted by each highway authority to determine those projects which may impact upon soil erosion and water diversion or retention.

Sec. 3. NEW SECTION. 306.51 SOIL EROSION IMPACT.

The soil conservation district commissioners shall, within thirty days after receipt of the construction program, notify the appropriate highway authority of the projects which will impact upon soil erosion and water drainage and request that the appropriate highway authority notify them of the date, time, and place for holding the design hearing on preliminary plans.

Sec. 4. NEW SECTION. 306.52 REVIEW OF PLANS.

Upon examining the preliminary plans on a road project, the soil conservation district commissioners may review each road project for which a drainage structure is required. The soil conservation commissioners shall ascertain whether or not the proposed erosion control or runoff control structure is suitable to reduce the velocity of runoff, reduce gully erosion, or provide for sedimentation or other improvement that would enhance soil conservation. The soil conservation commissioners shall also ascertain whether any other aspect of the road construction will affect soil conservation.

Sec. 5. NEW SECTION. 306.53 SUBMISSION OF RECOMMENDATIONS.

The soil conservation district commissioners shall submit their findings and recommendations to the appropriate highway authority not later than twenty days following examination of the construction plans.

The appropriate highway authority shall respond to the soil conservation district commissioners and indicate their agreement to the suggested installation or their rejection of the proposal.

Where feasible and cost-sharing funds are available, the soil conservation district may contribute in part or in its entirety to any additional cost for the erosion control structure.

Sec. 6. NEW SECTION. 306.54 REPORTING.

If the proposal is rejected, the appropriate highway authority shall provide a written report documenting the reason for the rejection to the soil conservation district commissioners and

the state department of transportation. The state department of transportation shall submit a written report to the general assembly not later than March 1 of each year. The report shall contain only a list of those highway projects where a disagreement exists between the department and the soil conservation district commissioners and the reasons for rejecting the recommendations of the soil conservation district commissioners. The report shall be filed with the secretary of the senate and the chief clerk of the house of representatives.

Sec. 7. This Act takes effect for construction projects which are approved on or after April 1, 1986.

Approved May 14, 1985

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**CHAPTER 107**  
**CITY COUNCIL SPECIAL ELECTIONS**  
*H.F. 537*

**AN ACT** relating to special elections to fill vacancies in city councils.

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

Section 1. Section 372.13, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph "a", the special election may be held concurrently with any pending election as provided by section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called at the earliest practicable date. If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called at the earliest practicable date. A special election held under this subsection is subject to neither a primary election nor runoff, even if such an election is required when the office in question is filled at a regular city election, and the candidate receiving a plurality of the vote is elected. A special election held under this subsection is subject to sections 376.4 through 376.11, but the dates for actions in relation to the special election shall be calculated with regard to the date for which the special election is called.

Approved May 14, 1985

**CHAPTER 108**  
**GREAT RIVER ROAD**  
*H.F. 539*

**AN ACT** relating to the jurisdiction and control of the great river road.

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

Section 1. Section 308.4, subsection 3, Code 1985, is amended to read as follows:

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

Sec. 2. Section 308.5, Code 1985, is amended to read as follows:

**308.5 JURISDICTION AND CONTROL.**

Jurisdiction and control of the great river road ~~shall be~~ is vested in the state transportation ~~commission as provided in section 306.4.~~

Approved May 14, 1985

**CHAPTER 109**  
**COMMUNITY CULTURAL GRANTS**

*H.F. 555*

**AN ACT** to establish the Iowa community cultural grants program within the office for planning and programming.

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

Section 1. NEW SECTION. 7A.51 TITLE.

This division shall be known and may be cited as the "Iowa community cultural grants program Act".

Sec. 2. NEW SECTION. 7A.52 COMMUNITY CULTURAL GRANTS COMMISSION ESTABLISHED.

The community cultural grants commission is established as a policymaking commission to direct the establishment and funding of community and cultural grants under appropriations provided by the general assembly.

The commission shall consist of five public members, not more than two from the same political party, appointed by the governor subject to confirmation by the senate under section 2.32, and one senator to serve as an ex officio nonvoting member, appointed by the president of the senate, and one representative to serve as an ex officio nonvoting member, appointed by the speaker of the house of representatives.

Notwithstanding section 69.19, the commission members' terms of office shall be for three years beginning July 1. Vacancies shall be filled in the same manner as the original appointment.

Members of the commission while engaged in their official duties shall be reimbursed for their actual and necessary expenses. Members of the general assembly shall be reimbursed pursuant to section 2.12.

Sec. 3. NEW SECTION. 7A.53 POWERS AND DUTIES.

1. The Iowa community cultural grants commission shall establish a program of grants to cities and community groups for the development of community programs that would provide local jobs for Iowa residents and at the same time promote a city's historical, ethnic, and cultural heritages through the development of festivals, music, drama, or cultural programs or tourist attractions.

2. At least twenty-five percent of the funds appropriated shall be used for the purpose of developing community programs eligible for grants under this division which were not in existence prior to the due date of grant applications each year.

a. A city or community group may submit applications to the Iowa community cultural grants commission. Applications shall be reviewed by the Iowa arts council, the state historical board, and the tourist division of the Iowa development commission, acting as an advisory committee to the commission. The advisory committee shall submit recommendations to the commission regarding possible recipients and grant amounts.

b. The amount of the grant shall not exceed fifty percent of the cost of the community program and the application must demonstrate that the city or community group will provide the required matching money. In lieu of providing the entire match in money, a city or community group may substitute in-kind services for up to fifty percent of the matching requirement.

Sec. 4. **NEW SECTION.** 7A.54

Funds appropriated for this program will not revert to the general fund of the state until eighteen months following the beginning of the fiscal year for which they were appropriated.

Approved May 14, 1985

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## CHAPTER 110

### PROOF OF VESSEL OWNERSHIP

*H.F. 625*

**AN ACT** to require the display of a bill of sale, receipt, or other proof of ownership for the registration of a vessel and to repeal the requirement for the issuance of a certificate of origin on the sale of a vessel.

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

Section 1. Section 106.5, subsection 1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The owner of the vessel shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the vessel and shall be accompanied by the appropriate fee, and a writing fee of one dollar. Upon applying for registration the owner shall ~~surrender the certificate of origin~~ display a bill of sale, receipt, or other satisfactory proof of ownership as provided by the rules of the commission to the county recorder. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter it upon the records of the recorder's office and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the vessel, the passenger capacity of the vessel and the name and address of the owner. In the use of all vessels except nonpowered sailboats, nonpowered canoes and commercial vessels, the registration certificate shall be carried either in the vessel or on the person of the operator of the vessel when in use. In the use of non-powered sailboats, nonpowered canoes or commercial vessels, the registration certificate may be kept on shore in accordance with rules adopted by the commission. The operator shall exhibit the certificate to a peace officer upon request, or, when involved in a collision or accident of any nature with another vessel or other personal property, to the owner or operator of the other vessel or personal property.

Sec. 2. Section 106.56, Code 1985, is repealed.

Approved May 14, 1985

**CHAPTER 111**  
**ASBESTOS IN SCHOOLS**  
*H.F. 639*

**AN ACT** relating to the presence and removal of asbestos in public school buildings.

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

Section 1. Section 279.43, subsection 2, Code 1985, is amended to read as follows:

2. The board of directors may also submit a proposal to the qualified electors of the school district at a regular school election held in ~~September, 1984~~ or at a special election held ~~not later than February 15, 1985~~, to authorize an additional tax levy to pay the actual cost of an asbestos removal or encapsulation project.

Sec. 2. Section 279.43, subsection 3, paragraphs c and d, Code 1985, are amended to read as follows:

c. If a property tax levy is selected under paragraph "b", subparagraph (1), the levy shall be certified for not more than three consecutive years ~~commencing not later than March 15, 1985 and ending not later than March 15, 1987~~.

d. If a combination of an enrichment property tax and a school district income surtax is selected, the amount of tax revenue raised shall not exceed the actual cost of the removal or encapsulation of the asbestos or the maximum amount which may be raised by the levy of the combination of the taxes for the three school years, ~~beginning July 1, 1985 and ending July 1, 1987~~ as determined under section 442.14, subsections 3 and 4, whichever amount is less.

Sec. 3. Not later than September 15, 1985, the board of directors of each school district shall provide information in writing to the parents of students enrolled in the school district concerning the presence of building materials containing friable asbestos in buildings owned or leased by the school district.

Approved May 14, 1985

**CHAPTER 112**  
**PROPERTY TAX INTEREST PENALTY**  
*H.F. 640*

**AN ACT** relating to the computation of interest penalties on delinquent property taxes.

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

Section 1. Section 445.39, Code 1985, is amended to read as follows:  
445.39 INTEREST AS PENALTY.

If the first installment of taxes is not paid by the delinquent date specified in section 445.37, the installment shall become due and draw interest, as a penalty, of one percent per month until paid, from the delinquent date following the levy; and if the last half is not paid by April 1 following the levy, the same interest shall be charged from the date the last half became delinquent. However, after April 1 in a fiscal year when late certification of the tax list results in a penalty date later than October 1 for the first installment, penalties on delinquent first installments shall accrue as if certification were made on the previous June 30. The interest penalty imposed under this section shall be computed to the nearest whole dollar and the amount of interest shall not be less than one dollar.

Approved May 14, 1985

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**CHAPTER 113**  
**SELF-SUPPORTED IMPROVEMENT DISTRICTS**  
*H.F. 652*

**AN ACT** authorizing the creation of self-supported improvement districts within residential areas which are designated as historic districts.

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

Section 1. Section 386.3, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. Be comprised of contiguous property wholly within the boundaries of the city. A self-supported municipal improvement district shall be comprised only of property in districts which are zoned for commercial or industrial uses and properties within a duly designated historic district.



Sec. 2. Section 386.8, Code 1985, is amended to read as follows:

**386.8 OPERATION TAX.**

A city may establish a self-supported improvement district operation fund, and may certify taxes not to exceed the rate limitation as established in the ordinance creating the district, or any amendment thereto, each year to be levied for the fund against all of the property in the district, for the purpose of paying the administrative expenses of the district, which may include but are not limited to administrative personnel salaries, a separate administrative office, planning costs including consultation fees, engineering fees, architectural fees, and legal fees and all other expenses reasonably associated with the administration of the district and the fulfilling of the purposes of the district. The taxes levied for this fund may also be used for the purpose of paying maintenance expenses of improvements or self-liquidating improvements ~~financed pursuant to this chapter~~ for a specified length of time with one or more options to renew if such is clearly stated in the petition which requests the council to authorize construction of the improvement or self-liquidating improvement, whether or not such petition is combined with the petition requesting creation of a district. Parcels of property which are assessed as residential property for property tax purposes are exempt from the tax levied under this section except residential properties within a duly designated historic district. A tax levied under this section is not subject to the levy limitation in section 384.1.

Sec. 3. Section 386.9, Code 1985, is amended to read as follows:

**386.9 CAPITAL IMPROVEMENT FUND.**

A city may establish a capital improvement fund for a district and may certify taxes, not to exceed the rate established by the ordinance creating the district, or any subsequent amendment thereto, each year to be levied for the fund against all of the property in the district, for the purpose of accumulating moneys for the financing or payment of a part or all of the costs of any improvement or self-liquidating improvement. However, parcels of property which are assessed as residential property for property tax purposes are exempt from the tax levied under this section except residential properties within a duly designated historic district. A tax levied under this section is not subject to the levy limitations in section 384.1 or 384.7.

Sec. 4. Section 386.10, Code 1985, is amended to read as follows:

**386.10 DEBT SERVICE FUND.**

A city shall establish a self-supported municipal improvement district debt service fund whenever any self-supported municipal improvement district bonds are issued and outstanding, other than revenue bonds, and shall certify taxes to be levied against all of the property in the district for the debt service fund in the amount necessary to pay interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all self-supported municipal improvement district bonds as authorized in section 386.11, issued by the city. However, parcels of property which are assessed as residential property for property tax purposes at the time of the issuance of the bonds are exempt from the tax levied under this section until such time as the parcels are no longer assessed as residential property or until the residential properties are designated as a part of an historic district.

Approved May 14, 1985

**CHAPTER 114**  
**RESIDENTIAL CARE FOR MENTALLY ILL**  
*S.F. 524*

**AN ACT** creating a residential care licensing classification for the mentally ill.

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

Section 1. Section 135C.2, subsection 3, Code 1985, is amended to read as follows:

3. The department shall establish by administrative rule, within the intermediate care facility category, a special classification for facilities intended to serve mentally retarded individuals, and within the residential care facility category, a special classification for residential facilities intended to serve mentally ill individuals. The department may also establish by administrative rule other classifications within that category, or special classifications within the residential care facility or skilled nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the classification is relevant and establish requirements for an approved program of care commensurate with such the problem or condition, and may grant special variances or considerations to facilities licensed within the classification so established.

Sec. 2. **ADVISORY COMMITTEE.** The state department of health shall convene an advisory committee composed of, but not limited to, representatives from the state department of health, the department of human services, the mental health and mental retardation commission, the commission on the aging, county mental health and mental retardation coordinating boards, providers of residential services for the mentally ill, advocacy groups for the mentally ill, and past and present consumers of residential services for the mentally ill or family members of such consumers. The advisory committee shall assist the state department of health in the development of appropriate standards of care which recognize the special needs of residents in both short-term, transitional residential care facilities for the mentally ill and long-term residential care facilities for the mentally ill.

Approved May 14, 1985

**CHAPTER 115**  
**UNMARKED CARS**  
*S.F. 525*

**AN ACT** authorizing the director of general services to assign unmarked motor vehicles to the department of justice.

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

Section 1. Section 18.115, subsection 7, Code 1985, is amended to read as follows:

7. The state vehicle dispatcher shall cause to be marked on every state-owned motor vehicle a sign in a conspicuous place which indicates its ownership by the state except cars requested to be exempt by the commissioner of public safety or the director of the department of general services. All state-owned motor vehicles shall display registration plates bearing the word "official" except cars requested to be furnished with ordinary plates by the commissioner of public safety or the director of the department of general services pursuant to section 321.19. The state vehicle dispatcher shall keep an accurate record of the registration plates used on all state cars.

Sec. 2. Section 321.19, subsection 1, Code 1985, is amended to read as follows:

1. All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign governments or by officers, boards, or departments of the government of the United States, and by the state, counties, municipalities and other political subdivisions of the state including vehicles used by an urban transit company operated by a municipality, regional transit system, and self-propelling vehicles used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality, regional transit system, and all fire trucks, providing they are not owned and operated for a pecuniary profit, are exempted from the payment of the fees imposed by this chapter, except as provided for urban transit companies in subsection 2, but are not exempt from the penalties provided in this chapter. The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official," and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven pointed gold star on a green background followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, and persons enforcing chapter 204 and other laws relating to controlled substances, and persons in the department of justice who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying "official" state registration plates. For purposes of sale of exempted

vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit," the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information which may be required by the department. The in-transit card shall be valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 3. Section 721.8, Code 1985, is amended to read as follows:

**721.8 LABELING PUBLICLY OWNED MOTOR VEHICLES.**

All publicly owned motor vehicles shall bear at least two labels in a conspicuous place, one on each side of said the vehicle. This label shall be designed to cover not less than one square foot of surface. This section ~~shall~~ does not apply to any a motor vehicle which ~~shall be~~ is specifically assigned by the head of the department or office owning or controlling it, to enforcement of police regulations or to motor vehicles issued ordinary registration plates pursuant to section 321.19, subsection 1.

Approved May 14, 1985

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## CHAPTER 116

### TEACHERS FOR GIFTED OR HANDICAPPED

*S.F. 526*

**AN ACT** requiring successful completion of a professional education program relating to education of the handicapped and gifted and talented before issuance of any certificate, endorsement, or approval by the department of public instruction.

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

Section 1. NEW SECTION. 257.31 SPECIFIC CRITERIA FOR TEACHER PREPARATION AND CERTAIN EDUCATORS.

Pursuant to section 257.10, subsection 11, the department shall adopt rules requiring:

1. All approved teacher training institutions to include in the professional education program, preparation that contributes to education of the handicapped and the gifted and talented, which must be successfully completed before graduation from the teacher training program.

2. A person initially applying for a certificate, endorsement, or approval shall successfully complete a professional education program containing the subject matter specified in subsection 1, before the initial action by the department takes place.

Approved May 14, 1985

**CHAPTER 117**  
**BARGAINING OF JUDICIAL EMPLOYEES**  
*S.F. 547*

**AN ACT** providing for collective bargaining on a statewide basis with certified employee organizations representing employees of the judicial department.

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

Section 1. Section 602.1401, subsection 3, Code 1985, is amended to read as follows:

3. The state court administrator is the public employer of court judicial department employees for purposes of chapter 20, relating to public employment relations.

For purposes of chapter 20, ~~certifications of employee organizations~~ the certified representative, which on July 1, 1983 ~~represent~~ represents employees who become court judicial department employees as a result of this Act, shall remain in effect the certified representative when the employees become court judicial department employees and thereafter, unless a public employee files a petition under section 20.14, subsection 3, and the public employee organization is decertified in an election held under section 20.15 or amended or absorbed into another certified organization pursuant to chapter 20. However, ~~collective~~ Collective bargaining negotiations shall be conducted by judicial district on a statewide basis and the certified employee organizations which engage in bargaining shall negotiate by judicial district on a statewide basis, although bargaining units shall be organized by judicial district. The public employment relations board shall adopt rules pursuant to chapter 17A to implement this subsection.

Approved May 14, 1985

**CHAPTER 118**  
**FEES COLLECTED BY THE SHERIFF**  
*H.F. 150*

**AN ACT** relating to fees collected by the sheriff.

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

Section 1. Section 331.655, subsection 1, paragraphs a, b, c, e, f, g, h, i, k, l, and o, Code 1985, are amended to read as follows:

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

b. For each warrant served, six fifteen dollars, and the repayment of necessary expenses incurred in executing the warrant, as sworn to by the sheriff, or if service of the warrant cannot be made, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the warrant.

c. For serving and returning a subpoena, for each person served, six fifteen dollars, and the necessary expenses incurred while serving subpoenas in criminal cases or relating to the mentally ill process.

e. For summoning a jury to assess the damages to the owners of lands taken for works of internal improvement, and attending them, thirty sixty dollars per day, and necessary expenses incurred. This subsection does not allow a sheriff to make separate charges for different assessments which can be made by the same jury and completed in one day of ten hours.

f. For serving an execution, attachment, order for the delivery of personal property, injunction, or any order of court, and returning it, five ten dollars.

g. For making and executing a certificate or deed for lands sold on execution, or a bill of sale for personal property sold, five twenty-five dollars.

h. For the time necessarily employed in making an inventory of personal property attached or levied upon, three eight dollars per hour.

i. For a copy of any paper required by law, made by the sheriff, twenty-five fifty cents.

k. For each day attending sale of property, three thirty dollars.

l. For conveying one or more persons to a state, county, or private institution by order of court or commission, necessary expenses for the sheriff and the person conveyed and three ten dollars per hour for the time necessarily employed in going to and from the institution, the expenses and hourly rate to be charged and accounted for as fees. If the sheriff needs assistance in taking a person to an institution, the assistance shall be furnished at the expense of the county.

o. For posting a notice or advertisement, the fee provided in section ~~618.12~~ one dollar.

Approved May 15, 1985

**CHAPTER 119**  
**PAYMENT OF COMMISSION SALESPERSONS**  
*H.F. 164*

**AN ACT** relating to the payment of commissions to commission salespersons and providing a penalty.\*

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

Section 1. Section 91A.2, subsection 3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

"Employee" means a natural person who is employed in this state for wages by an employer. Employee also includes a commission salesperson who takes orders or performs services on behalf of a principal and who is paid on the basis of commissions but does not include persons who purchase for their own account for resale. For the purposes of this chapter, the following persons engaged in agriculture are not employees:

Approved May 15, 1985

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\*According to enrolled Act

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**CHAPTER 120**  
**BUFFALO LEGALIZING ACT**  
*H.F. 181*

**AN ACT** to legalize proceedings taken by the city council of the city of Buffalo, Iowa relating to the compensation of the mayor.

WHEREAS, the city council of the city of Buffalo, Iowa adopted a resolution on October 19, 1981 to increase the salary for the mayor of Buffalo, Iowa; and

WHEREAS, the compensation of the mayor has been determined and paid on the basis of this resolution beginning January 1, 1982; and

WHEREAS, section 372.13, subsection 8, of the Code requires a city council to prescribe the compensation of the mayor, the city council, and other elected city officers by ordinance; and

WHEREAS, the resolution passed by the city council increased the compensation of the mayor in excess of the amount specified in an ordinance adopted by the city council on May 7, 1973; and

WHEREAS, some doubts have arisen pertaining to the increased compensation paid to the mayors of the city of Buffalo, Iowa beginning on January 1, 1982 and those acts should be legalized and the matter once and for all be put to rest; NOW THEREFORE,

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

Section 1. That all proceedings taken by the city council of the city of Buffalo, Iowa to increase the compensation of the mayor effective January 1, 1982 where the city council failed to comply with section 372.13, subsection 8, of the Code are validated, legalized, and confirmed.

Approved May 15, 1985

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## CHAPTER 121

### NOTICE UNDER MOTOR VEHICLE CODE

*H.F. 366*

**AN ACT** relating to the giving of notices under chapter 321 or any other law regulating the operation of vehicles.

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

Section 1. Section 321.16, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~Whenever~~ When the department is authorized or required to give ~~any~~ notice under this chapter or any other law regulating the operation of vehicles, unless a different method of giving ~~such~~ notices is ~~otherwise~~ expressly prescribed, ~~such~~ notice shall be given either by personal delivery to the person to be so notified or by personal service in the manner of original notice by R.C.P. 56.1, paragraph "a," or by ~~restricted~~ certified mail addressed to ~~such~~ the person at the address shown by the records of the department. Return acknowledgment is required to prove ~~such~~ the latter service.

Approved May 15, 1985



**CHAPTER 122****MENTALLY ILL AND RETARDED SERVICE STANDARDS***H.F. 742*

**AN ACT** relating to the prospective repeal of chapter 225C and the enforcement of certain service standards for the mentally ill and mentally retarded.

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

Section 1. Section 225C.4, subsection 1, paragraph s, Code 1985, is amended to read as follows:

s. In co-operation with the state department of health, recommend and enforce minimum standards under section 227.4 for the care of and services to mentally ill and mentally retarded persons residing in county care facilities.

Sec. 2. Section 227.4, Code 1985, is amended to read as follows:

**227.4 STANDARDS FOR CARE OF MENTALLY ILL AND MENTALLY RETARDED PERSONS IN COUNTY CARE FACILITIES.**

The director, in co-operation with the state department of health, shall recommend, and the mental health and mental retardation commission shall adopt standards for the care of and services to mentally ill and mentally retarded persons residing in county care facilities. The standards shall be enforced by the state department of health as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that mentally ill and mentally retarded residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the director shall designate an advisory committee representing administrators of county care facilities, county co-ordinating boards, and county care facility care review committees to assist in the establishment of standards.

Sec. 3. 1981 Iowa Acts, chapter 78, section 20, as amended by 1982 Iowa Acts, chapter 1117, section 2, is repealed.

Sec. 4. **NEW SECTION. 225C.19 FUTURE STATUS OF DIVISION.**

This chapter is repealed effective July 1, 1990.

Approved May 15, 1985

**CHAPTER 123**  
**MERGED AREA HOSPITALS**  
*H.F. 746*

**AN ACT** relating to merged area hospitals.

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

Section 1. Section 145A.2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

Sec. 2. Section 145A.2, subsection 3, Code 1985, is amended to read as follows:

3. "Merged area" means a public corporation formed by the residents of two or more contiguous or noncontiguous political subdivisions which have merged resources to establish and operate an area hospital.

Sec. 3. Section 145A.3, Code 1985, is amended to read as follows:

145A.3 OFFICIAL PLANNING — MAXIMUM LEVY.

~~The officials of any a political subdivision are hereby authorized to may plan for the merger of an the formation of a public corporation as a merged area to establish and operate an area hospital; and in. In planning for such hospitals an area hospital, a county board of supervisors may exclude from the merged area any township of the county which the board of supervisors determines would not sufficiently benefit by the merger and the portion of the county not so excluded shall constitute one public corporation for the purposes of this chapter. Plans for an area hospital shall include the maximum amount to be levied in for debt service and operation and maintenance of the area hospital in the portion of the merged area within each political subdivision taking part in the merger; and. However, the maximum tax rates for the various political subdivisions may vary as the officials determine, such variance to be based upon the need for hospital service of the residents of each political subdivision, the proximity of such the residents to the proposed location of the hospital, the property values within said the subdivision, and the expected service benefits to the residents of each subdivision by the proposed area hospital.~~

Sec. 4. Section 145A.5, Code 1985, is amended to read as follows:

145A.5 ORDER OF APPROVAL.

~~When a plan is approved, the officials approving such the plan shall jointly issue an order of approval. Such The order shall specify the area to be merged, the maximum levy in rate of tax to be levied for debt service and operation and maintenance of the proposed area hospital in the portion of the merged area within each political subdivision, the proposed location of the hospital building, the estimated cost of the establishment of the hospital, and any other details concerning the establishment and operation of the hospital they the officials deem pertinent. The order shall then be published in one or more newspapers which have general circulation within the merged area for once each week for three consecutive weeks, but the newspapers selected need not be published in the merged area. Such The published order shall also contain a notice to the residents of each subdivision of the proposed merged area~~

that if they the residents fail to protest as provided herein, that in this chapter, the order shall be deemed approved upon the expiration of a sixty-day period following the date of the last published notice.

Sec. 5. Section 145A.12, Code 1985, is amended to read as follows:

145A.12 OPERATION AND MANAGEMENT.

The board shall govern the operation and management of the area hospital and is hereby empowered to may do all things necessary to establish and operate said the hospital and shall have. The board has all the general powers, duties, and responsibilities of the trustees of county public hospitals as set out in sections 347.13 and 347.14 and may enter into contracts for the operation and management of area hospital facilities.

Sec. 6. Section 145A.13, Code 1985, is amended to read as follows:

145A.13 POLITICAL STATUS.

A hospital merged area as a public corporation formed under the provisions of this chapter shall be a body politic for the purpose of exercising may exercise the powers granted under this chapter, and as such may sue and be sued, purchase and sell property, incur indebtedness in accordance with constitutional limitations, and exercise all the powers granted by law and such other powers as are incident to public corporations of like character and not inconsistent with the laws of this state.

Sec. 7. Section 145A.14, Code 1985, is amended to read as follows:

145A.14 BUDGET FOR OPERATION.

The board shall prepare an annual budget designating the proposed expenditures for operation of the area hospital and payment of bonded indebtedness, and the amount to be raised by taxation, following the requirements of chapter 24. The board shall prorate the amount to be raised for operations by local taxation among the respective political subdivisions forming a part of the merged area in the proportion that the product of the value of taxable property and the maximum tax levy rate in each political subdivision bears to the total product of the value of taxable property and the maximum tax levy rate in the entire merged area, but not in an amount which would exceed the maximum levy as set out in the published order of merger. The board of hospital trustees shall certify the amount so determined to the respective levying officials of the merged area affected counties, and said the officials shall levy a tax sufficient to raise the annual budget. Taxes collected pursuant to such the levy shall be paid by the respective officials county treasurers to the treasurer of the merged area hospital in the same manner that school taxes are paid to local school districts.

Sec. 8. Section 145A.17, Code 1985, is amended to read as follows:

145A.17 INDEBTEDNESS AND BONDS.

Boards of hospital trustees may by resolution acquire sites and erect and equip buildings by purchase, lease, construction, or otherwise, for use by area hospitals and may by resolution contract indebtedness on behalf of the merged area and issue bonds bearing interest at a rate not exceeding that the rate of interest permitted by chapter 74A, to raise funds for such purposes in accordance with chapter 75 for the purpose of acquiring the sites and buildings.

Sec. 9. Section 145A.18, Code 1985, is amended to read as follows:

145A.18 TAXES.

Taxes for the payment of bonds issued under section 145A.17 shall be levied in accordance with chapter 76, provided, however, that the total tax levy for the annual budget and for bonds issued under this chapter, shall not exceed the maximum for each political subdivision as provided in the published order of merger and in the same proportion as provided in section 145A.14. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes.

Sec. 10. Section 145A.20, Code 1985, is amended to read as follows:  
145A.20 REVENUE BONDS.

In addition to any other provisions of this chapter and for the purpose of acquiring, constructing, equipping, enlarging, or improving a hospital building or any part thereof of a hospital building, merged areas may issue revenue bonds and the board has all the powers and duties of a county board of supervisors as provided in chapter 331, division IV, part 4 and section 347A.3.

Sec. 11. NEW SECTION. 145A.21 AMENDMENT OF PLAN OF MERGER – PROCEDURES – QUALIFICATIONS.

A plan of merger once approved may be amended. An amendment shall be formulated and approved in the same manner and subject to the same limitations as provided in sections 145A.3 through 145A.9 for the formulation and approval of an original plan of merger. However, an amendment to a plan of merger shall not in any way impair the obligation of or source of payment for bonds or other indebtedness duly contracted prior to the effective date of the amendment to the plan of merger.

Sec. 12. NEW SECTION. 145A.22 ACTIONS SUBJECT TO CONTEST OF ELECTIONS – FILING ACTIONS – LIMITATION.

A special election called to approve or reject an original plan of merger or an amendment to an approved plan of merger is subject to the provisions for contest of elections for public measures set forth in chapter 57. Except as provided with respect to election contests, after one hundred twenty days following the third and final publication of the order of approval of the plan or amendment to the plan of merger, an action shall not be filed to contest the regularity of the proceedings with respect to a plan of merger or amendment to a plan of merger. After one hundred twenty days the organization of the merged area is conclusively presumed to have been lawful.

Sec. 13. Section 347A.3, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A tax levied under this section for paying the expenses of operation and maintenance of a merged area hospital pursuant to the authority granted a merged area under section 145A.20, shall only be levied on the assessed value of property in that portion of a county which is part of the merged area, in accordance with the plan or merger established, approved, and implemented under sections 145A.3, 145A.4, 145A.5, and 145A.14.

Approved May 15, 1985

**CHAPTER 124****RESTITUTION OF CHILD'S ATTORNEY FEES***H.F. 751*

**AN ACT** relating to restitution by a child for attorneys' fees.

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

Section 1. Section 232.52, subsection 2, paragraph a, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

a. An order prescribing one or more of the following:

- (1) A work assignment of value to the state or to the public.
- (2) Restitution consisting of monetary payment or a work assignment of value to the victim.
- (3) If the child is fourteen years of age or older, restitution consisting of monetary payment or a work assignment of value to the county or to the public for fees of attorneys appointed to represent the child at public expense pursuant to section 232.11.

An order under paragraph "a" may be the sole disposition or may be included as an element in other dispositional orders.

Approved May 15, 1985

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**CHAPTER 125****TERMINATION OF A LIBRARY DISTRICT***H.F. 670*

**AN ACT** relating to the termination of a county library district.

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

Section 1. Section 358B.16, unnumbered paragraph 4, Code 1985, is amended to read as follows:

A county library district may be terminated upon if a majority vote of the electors of the unincorporated area of the county and the cities included in the county library district voting on the issue favor the termination. The election shall be held upon motion of the board of supervisors and simultaneously with a primary, general, or other county election. If the vote favors termination, the termination shall be effective on the succeeding July 1.

Approved May 15, 1985

**CHAPTER 126**  
**DAIRY INDUSTRY COMMISSION**  
*H.F. 692*

**AN ACT** relating to the Iowa dairy industry commission.

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

Section 1. Section 179.1, subsection 3, Code 1985, is amended to read as follows:

3. ~~The term "producer" shall mean and include every~~ "Producer" means a person who produces milk or cream from cows and thereafter sells the same as milk, cream, or other dairy products.

Sec. 2. Section 179.1, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. "First purchaser" means a person who buys milk from a producer and resells that milk or products made from the milk to another person.

Sec. 3. Section 179.1, subsection 5, Code 1985, is amended to read as follows:

5. "Collection period" means a calendar ~~month~~ year.

Sec. 4. Section 179.1, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 6. "Nutrition education" means activities intended to broaden the understanding of sound nutritional principles including the role of milk in a balanced diet.

NEW SUBSECTION. 7. "Promotion" means actions including but not limited to advertising, sales, promotion, and publicity to advance the image and sales of and demand for milk.

NEW SUBSECTION. 8. "Research" means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and to product utilization, and other related efforts to expand demand for milk.

Sec. 5. Section 179.2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

1. There is created an Iowa dairy industry commission, referred to in this chapter as the commission. The commission shall be composed of the head of the dairy science department and the head of the food technology department of Iowa State University of science and technology, the secretary of agriculture or the secretary's designee, the dean of agriculture at Iowa state university of science and technology or the dean's designee, and nine sixteen members appointed by the secretary of agriculture as provided in this section.

Sec. 6. Section 179.2, unnumbered paragraphs 2 and 3, Code 1985, are amended by striking the paragraphs.

Sec. 7. Section 179.2, unnumbered paragraphs 4, 5, 6, and 7, Code 1985, are amended to read as follows:

2. Commissioners shall serve until their successors are duly appointed and qualify. Vacancies occurring in the membership of the commission resulting from removal from the district, death, inability or refusal to serve, or failure to meet the definition of a producer, shall be filled within three months of the time the vacancy occurs in the manner provided in this section by the commission. Vacancy appointments shall be only for the remainder of the unexpired term. A commissioner shall not serve more than two consecutive full terms.

3. Appointive members of the commission shall receive forty dollars for each day spent on official business of the commission, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in commission activity.

4. When a national promotional order is established by the United States department of agriculture pursuant to the ~~dairy product stabilization~~ Dairy Product Stabilization Act of 1983, collection of the excise tax in section 179.5 shall be suspended for the period in which the national order is in effect. The commission shall continue to operate thereafter for only ~~such~~ the period of time as is necessary to pay refunds and disburse the funds remaining in the dairy industry fund for the purposes enumerated in this chapter. Upon completion of these acts, the existence of the Iowa dairy industry commission shall be suspended. The secretary of agriculture shall certify the suspension of the commission as of a date certain to the Iowa dairy industry commission and the Iowa state dairy association. When the existence of the commission is suspended, the terms of office being served by individual commissioners shall also ~~be suspended terminate~~.

5. When the national promotional order expires, the period of suspension of the excise tax in section 179.5 shall terminate and the secretary of agriculture shall take ~~such~~ the steps as are necessary to collect that excise tax and otherwise fulfill the duties of the commission, except that of expending funds collected under the excise tax, until those duties can be resumed by the reactivated commission. When the national promotional order expires, the period of suspension of the commission shall terminate and the terms of office of the individual commissioners shall continue and the period of the suspension shall not be counted to determine the time left in the terms of office. ~~Vacancies occurring in the commission during the period of suspension shall be filled when the suspension is terminated.~~ The secretary of agriculture shall call the first meeting of the reactivated commission. Upon reactivation, the commission shall reimburse the secretary of agriculture for any expenses incurred in carrying out the duties provided in this paragraph.

Sec. 8. Section 179.2, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 6. When the national dairy promotion program expires and the suspension of the Iowa dairy industry commission terminates pursuant to subsection 5, all first purchasers shall, in a manner designed to reflect their proportionate contributions to the national dairy promotion program in its most recently completed fiscal year, nominate two resident producers for each of the sixteen offices of the commission. The secretary of agriculture shall then appoint one nominee from each set of two nominees as commissioners of the reactivated Iowa dairy industry commission. The secretary of agriculture shall stagger the terms of the reactivated commission resulting in as nearly as possible one third of the commissioners serving for one year, one third of the commissioners serving for two years, and one third of the commissioners serving for three years. After the initial staggering of terms by the secretary, commissioners shall be appointed to three-year terms.

NEW SUBSECTION. 7. After the reactivated commission has been formed, nominations for commissioners shall be made by first purchasers in a manner designed to reflect their proportionate contributions to the Iowa dairy industry commission in its most recently completed fiscal year.

Sec. 9. Section 179.3, subsection 8, Code 1985, is amended to read as follows:

8. To keep accurate books, records, and accounts of all its dealings, which books, records, and accounts shall ~~be open to inspection and audit by the board of directors of the Iowa state dairy association or its representatives, and shall be audited annually by the auditor of state.~~

Sec. 10. Section 179.4, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

## 179.4 EXPENDITURE OF FUNDS.

Funds collected through the excise tax are to be used for purposes of advertising and promotion, product, process, and nutrition, dietetics, and physiology research, nutrition education, public relations, research and development, and for other activities that contribute to producer efficiency and productivity. In addition, the commission shall use these funds to maintain existing markets, to make contributions to organizations working toward the purposes of this section, and to assist in the development of new or enlarged markets for milk, both domestic and foreign. The primary purpose for use of these funds is to increase consumption of milk. The commission may contract for advertising, publicity, sales promotion, research, and educational services the committee deems appropriate to further the objectives of this section.

Sec. 11. Section 179.5, Code 1985, is amended to read as follows:

## 179.5 EXCISE TAX.

1. ~~Except as otherwise provided in section 179.13, there~~ There is hereby levied and imposed an excise tax on all producers within the state of one cent per pound or fraction thereof upon all butterfat in cream and four cents per hundredweight or fraction thereof in three fourths of one percent of the gross value of milk produced in the state during the period beginning May 1 and terminating June 30, annually; provided, however, that the provisions of this section shall not apply to butterfat in milk and cream produced outside the state.

2. All taxes levied and imposed under this chapter shall be deducted from the price charged received by the producer and shall be collected by the first dealer; provided, however, that purchaser, except as follows:

a. Where If the producer produces milk or cream from cows and thereafter sells the same as milk, cream, or other dairy products, directly to the consumer, the taxes aforesaid shall be remitted by such that producer.

b. Where If the producer sells milk, cream or other dairy products to any dealer a first purchaser outside the state, the taxes aforesaid shall be are due and payable by such that producer before the shipment is made, except that the commission may make such agreements with extra state dealers purchasers for the keeping of records and the collection of the taxes aforesaid as are necessary to secure the payment of the said taxes within the time fixed by this chapter.

All taxes levied and imposed under this chapter and any voluntary other contributions made to the dairy industry commission, shall be paid to and collected by the secretary of the commission who within thirty days after the end of the month during which the milk was marketed. The commission shall remit the taxes and other contributions to the treasurer of the state, quarterly each quarter, and at the same time render to the state comptroller an itemized and verified report showing the source from which said the taxes and voluntary contributions were obtained. All such taxes and voluntary contributions received, collected and remitted shall be placed in a special fund by the treasurer of state, and the state comptroller, to be known as the "Dairy Industry Fund" to be used by the Iowa dairy industry commission for the purposes set out in this chapter and to administer and enforce the laws relative thereto to this chapter. Funds deposited in the dairy industry fund are appropriated for the purpose of carrying out the provisions of this chapter.



~~Any~~ A person from whom the excise tax provided in this chapter is collected may, by application filed with ~~this~~ the commission within thirty days after the collection of ~~said~~ the tax, have ~~said~~ the tax ~~remitted~~ refunded to that person by the commission.

Sec. 12. Section 179.6, Code 1985, is amended to read as follows:

179.6 PRODUCERS' RECORDS.

Every producer shipping milk, ~~cream or other dairy products~~ to any dealer a first purchaser outside of Iowa who is not by agreement with the commission collecting the tax imposed by this chapter, and every first dealer purchaser within the state and every producer distributing milk, ~~cream, or other dairy products~~ directly to the consumer, shall keep a complete and accurate record of all ~~butterfat~~ taxed by this chapter in milk or cream produced, bottled, processed or distributed by the person during any the period for which an excise tax levy is imposed under the provisions of this chapter. ~~Such~~ The records shall be in ~~such~~ the form and contain ~~such~~ the information as prescribed by the commission, shall by rule prescribe and shall be preserved by the person charged with their making for a period of two years, and shall be offered or submitted for inspection at any time upon written or oral request by the commission or its duly authorized agent or employee.

Sec. 13. Section 179.7, Code 1985, is amended to read as follows:

179.7 RETURNS FILED WITH COMMISSION.

Every person charged by this chapter or by agreement with the commission with the keeping of records provided for in this chapter shall at ~~such~~ the times as the commission may by rule require, file with the commission a return on forms to be prescribed and furnished by the commission ~~stating~~. Producers shall state the quantity of dairy products milk produced. First purchasers shall state the quantity of milk handled, bottled, processed, or distributed, and butterfat content of all milk or cream produced by, delivered to, or purchased by such the person from the various producers of dairy products or their agents in the state during the collection period prescribed in section 179.5, subsection 1, and as a result of any a referendum. Such return Returns shall contain ~~such~~ other information as the commission may require, and shall be made in triplicate, one copy of which shall be for the files of the person making the return, ~~and~~ one copy available at the office of ~~such~~ the person, for the use of ~~his~~ the person's patrons, and the original filed with the commission.

Sec. 14. Section 179.8, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. No more than five percent of the excise tax collected and received by the commission pursuant to section 179.5 shall be utilized for administrative expenses of the commission.

Sec. 15. Section 179.10, Code 1985, is amended to read as follows:

179.10 REPORT.

The commission shall on or before the first day of March of each year make a full and complete report of its doings for the previous calendar year ~~to the board of directors of the Iowa state dairy association, which to the secretary of agriculture.~~ The report shall show the amount of money received and the expenditures ~~thereof~~, and shall be printed in the annual agricultural year ~~book~~ yearbook issued by the secretary of agriculture of the state.

Sec. 16. Section 179.13, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

179.13 REFERENDUM.

At a time designated by the commission within eighteen months after termination of the national promotional order made pursuant to the Dairy Product Stabilization Act of 1983, the commission shall conduct a referendum under administrative procedures prescribed by the department of agriculture.

Upon signing a statement certifying to the department that the person is a bona fide producer as defined in this chapter, each producer is entitled to one vote in each referendum. When the secretary is required to determine the approval or disapproval of producers under this section, the secretary shall consider the approval or disapproval of a cooperative association of producers, engaged in a bona fide manner in marketing milk, as the approval or disapproval of the producers who are members of or contract with the cooperative association of producers. If a cooperative association elects to vote on behalf of its members, the cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval with a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. The information shall inform the producer of procedures to follow to cast an individual ballot if the producer chooses to do so within the period of time established by the secretary for casting ballots. The notification shall be made at least thirty days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the secretary and the vote of the cooperative association shall be adjusted to reflect the individual votes.

The department shall count and tabulate the ballots filed during the referendum within thirty days of the close of the referendum. If from the tabulation the department determined that a majority of the total number of producers voting in the referendum favors the proposal, the excise tax provided for in this chapter shall be continued. The ballots cast pursuant to this section constitute complete and conclusive evidence for use in determinations made by the department under this chapter.

The secretary may conduct a referendum at any time after the Iowa dairy industry commission is reactivated, and shall hold a referendum on request of a representative group comprising ten percent or more of the number of producers eligible to vote, to determine whether the producers favor the termination or suspension of the excise tax. The secretary shall suspend or terminate collection of the excise tax within six months after the secretary determines that suspension or termination of the excise tax is favored by a majority of the producers voting in the referendum, and shall terminate the excise tax in an orderly manner as soon as practicable after the determination.

Approved May 15, 1985

**CHAPTER 127**  
**CONVERSION TO STOCK LIFE INSURANCE COMPANY**  
*H.F. 703*

**AN ACT** creating a procedure for a domestic mutual life insurance company to become a domestic stock life insurance company.

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

Section 1. **NEW SECTION. 508B.1 DEFINITIONS.**

As used in this chapter, unless the context clearly indicates otherwise:

1. "Mutual life insurance company" or "mutual company" means a level premium and natural premium life insurance company authorized under chapter 508 upon the mutual plan and includes a domestic company which meets the requirements of section 508.12.

2. "Stock life insurance company" or "stock company" means a life insurance company authorized under chapter 508 upon the stock plan and includes a domestic company which meets the requirements of section 508.12.

3. "Commissioner" means the commissioner of insurance.

4. a. "Plan of conversion" or "conversion plan" means a plan authorized by section 508B.3 and, in the case of plans authorized by section 508B.3, subsections 1 and 3, includes a procedure by which the mutual company's participating policies and contracts in force on the effective date of the conversion plan are operated by the reorganized company as a closed block of participating business for the exclusive benefit of the policies and contracts included, for dividend purposes only, to which are allocated assets of the mutual company in an amount which together with anticipated revenue from the business is reasonably expected to be sufficient to support the business, and which includes, but is not limited to, provisions for payment of claims and reasonable expenses, and provisions for continuation of current payable dividend scales if the experience underlying the scales continues and for appropriate adjustments in the scales if the experience changes. However, at the option of the mutual company, some or all classes of group policies and contracts shall continue to be eligible to receive dividends based on the experience of such class or classes.

b. If any amount of the policyholders' consideration as specified in section 508B.3, subsection 3, paragraph "b", for certain classes of policies or contracts is to be paid in the form of increased annual dividends to the policyholders in those classes, that amount is to be added to the assets allocated as provided in paragraph "a" and is to be paid to those classes.

5. "Policyholder" means a person determined by the mutual company who is to be the holder of a policy or annuity contract for the purposes of section 508B.3, subsection 1, 2, or 3.

6. "Policyholders' membership interest" means all policyholders' rights as members of the mutual company including, but not limited to, rights to vote and participate in any distribution of surplus whether or not incident to liquidation of the mutual company.

7. "Reorganized company" means the domestic stock life insurance company into which a mutual company has been converted.

Sec. 2. NEW SECTION. 508B.2 MUTUAL COMPANY BECOMING STOCK COMPANY  
— AUTHORIZATION.

A mutual life insurance company may become a stock life insurance company pursuant to a plan of conversion established and approved in the manner provided by this chapter.

A plan of conversion may provide that a mutual company may convert into a domestic stock company, convert and merge, or convert and consolidate with a domestic stock company, as provided in chapter 491 or 496A, whichever is applicable. However, the mutual company is not required to comply with sections 491.102 through 491.105 or sections 496A.68 through 496A.70 relating to approval or merger or consolidation plans by boards of directors and shareholders, if at the time of approval of the plan of conversion the board of directors approves the merger or consolidation and if at the time of approval of the plan by policyholders as provided in section 508B.6, the policyholders approve the merger or consolidation. This chapter supersedes any conflicting provisions of chapters 521 and 521A. A mutual company may convert, merge, or consolidate as part of a plan of conversion in which a majority or all of the common shares of the stock company are acquired by another corporation, which may be a corporation organized for that purpose, or in which the new stock company consolidates with a stock company to form another stock company.

In lieu of selecting a plan of conversion provided for in this chapter, a mutual company may convert to a stock company pursuant to a plan approved by the commissioner. The commissioner may use any provisions or combination of provisions provided for a plan in this chapter and may adopt any other provisions which are not unfair or inequitable to the policyholders of the mutual company. If a mutual company selects this procedure for conversion purposes, the mutual company shall reimburse the state for expenses incurred by the insurance department in connection with the conversion plan except for expenses that are normal operating expenses of the insurance department.

Sec. 3. NEW SECTION. 508B.3 CONVERSION PLANS NOT TO BE UNFAIR OR  
INEQUITABLE — PLANS — ALTERNATIVE PROCEDURES AND REQUIREMENTS.

A plan of conversion shall not be unfair or inequitable to policyholders. A plan of conversion is not unfair or inequitable if it satisfies the conditions of subsections 1, 2, or 3. The commissioner may determine that any other plan proposed by a mutual company is not unfair or inequitable to its policyholders.

1. Subject to paragraph "b", a plan of conversion under this subsection shall provide all of the following:

a. The policyholders' membership interest shall be exchanged, in a manner which takes into account the estimated proportionate contribution of surplus of each class of participating policies and contracts, for all of the common shares of the reorganized company or its parent company, if any, or for either or a combination of the common shares of the reorganized company or its parent company, if any, and consideration equal to the proceeds of the sale of the common shares by the issuer or by a trust or other entity existing for the exclusive benefit of policyholders and established solely for the purpose of effecting the conversion, to which trust or other entity the common shares, or the options to acquire or securities convertible into the common shares, shall be issued by the issuer on the effective date of the conversion. The consideration shall be distributed to policyholders during a process of conversion specified in the plan which shall not last more than ten years after the effective date of conversion or until the death of the policyholder, whichever occurs first.

b. Unless the anticipated issuance within a shorter period is disclosed, the issuer of common shares shall not, within two years after the effective date of reorganization, issue either of the following:

(1) Any of its common shares or any securities convertible with or without consideration into the common shares or carrying any warrant to subscribe to or purchase common shares.

(2) Any warrant, right or option to subscribe to or purchase the common shares or other securities described in subparagraph (1), except for the issue of common shares to or for the benefit of policyholders pursuant to the plan of conversion and the issue of stock in anticipation of options for the purchase of common shares being granted to officers or employees of the reorganized company or its parent company, if any, pursuant to this chapter.

c. Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years of the effective date of the conversion or a longer period as disclosed in the plan of conversion. Within one year after the offering of stock other than the initial distribution, but no later than six years after the effective date of the conversion, the reorganized company shall offer to make available to policyholders who received and retained shares of stock with minimal values on conversion, a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

2. A plan of conversion under this subsection shall provide all of the following:

a. The mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion shall be operated by the reorganized insurer as a closed block of participating business.

b. Assets of the mutual company shall be allocated to the closed block of participating business in an amount equal to the reserves and liabilities for the mutual life insurer's participating policies and contracts in force on the effective date of the conversion.

c. The consideration to be given in exchange for the policyholders' membership interest consists of aggregate consideration in a form or forms selected by the mutual company having a value equal to the amount of the statutory surplus of the mutual life insurer.

d. The consideration is allocated among the policyholders in a manner which is fair and equitable to the policyholders.

e. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market on the initial offering of such shares.

f. The estimated value shall take into account all of the following:

(1) The consideration to be given to policyholders pursuant to paragraph "c".

(2) The proceeds of the sale of the shares.

(3) Any additional value attributable to the shares as a result of a purchaser or a group of purchasers who acted in concert to obtain shares in the initial offering, attaining, through such purchase, control of the reorganized company or its parent corporation.

g. If a purchaser or a group of purchasers acting in concert is to attain such control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of the proposed company, whether or not the conversion is effected.

h. The reorganized company may share in the profits of the closed block of participating business for the benefit of stockholders.

3. A plan of conversion under this subsection shall satisfy all of paragraphs "a" through "j" and may add or substitute, as applicable, the options provided in paragraphs "k" and "l".

a. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated market value on the initial offering taking into account the value to be given to participating policyholders pursuant to paragraph "b" and the proceeds of the sale.

b. The participating policyholders' consideration shall be based on the latest annual statement filed prior to the effective date of the adoption by the board of directors of the plan of conversion and shall be equal to the excess of both of the following:

(1) The total amount of the mutual company's assets accumulated from the operations of participating policies and contracts in force on the date of the statement over the sum of the total amount of assets allocated to the participating business.

(2) An amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business.

c. The consideration to be given in exchange for the policyholders' membership interest shall consist of the participating policyholders' consideration and nontransferable preemptive subscription rights to purchase all of the common shares of the issuer and the establishment of a liquidation account for the benefit of the policyholders in the event of a subsequent complete liquidation of the reorganized company having the terms described in paragraph "j".

d. The consideration and the preemptive subscription rights to purchase the common shares shall be allocated among the participating policyholders in a manner determined by the reorganized company which takes into account the estimated contribution of each class of participating policies and contracts to the total amount of the policyholders' consideration.

e. The number of the common shares which any person, together with any affiliates or group of persons acting in concert, may subscribe for or purchase in the reorganization shall be limited to not more than five percent of the common shares. For this purpose, neither the members of the board of directors of the reorganized company nor of its parent corporation, if any, shall be deemed to be affiliates or a group of persons acting in concert solely by reason of their board membership.

f. Unless the common shares have a public market when issued, officers and directors of the issuer and their affiliates shall not, for at least ninety days after the date of conversion, purchase common shares of the issuer, except in negotiated transactions involving more than ten percent of the outstanding common shares.

g. Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

h. The issuer shall not, for at least three years following the conversion, repurchase any of its common shares except pursuant to a pro rata tender offer to all shareholders.

i. Until the liquidation account has been reduced to zero, the issuer shall not declare or pay a cash dividend on, or repurchase any of, its common shares in an amount in excess of its cumulative earned surplus generated after the conversion determined in accordance with generally accepted accounting principles, if the effect would be to cause the amount of the statutory surplus of the reorganized company to be reduced below the then amount of the liquidation account.

j. The liquidation account referred to in paragraph "c" must be equal to the excess of the total amount of the assets of the mutual company as of the effective date of the conversion over the sum of the total amount of assets allocated to the closed block of participating business and the policyholders' consideration and other reserves and liabilities attributed to policies and contracts not included in the amount attributable to policies and contracts in force on that effective date. The determinations shall be based on the latest annual statement of

the mutual company filed before the effective date of the conversion plan. The function of the liquidation account shall be solely to establish a priority on liquidation and its existence shall not operate to restrict the use or application of the surplus of the reorganized company except as specified in paragraph "i". The liquidation account shall be allocated equally as of the effective date of conversion among the then participating policyholders. The amount allocated to any policy or contract shall not increase and shall be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated shall be entitled to receive a liquidation distribution in the then amount of the liquidation account before any liquidation distribution is made with respect to shares.

k. At the option of the mutual company, the consideration to be given in exchange for the policyholders' membership interest or into which the membership is to be converted may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, or other consideration or any combination of forms of consideration. The consideration, if any, given to any class or category of policyholder may differ from the consideration given to another class or category of policyholders. The certificate of contribution shall be repayable in ten years, equal to one hundred percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

l. At the option of the mutual company, a plan may provide that any shares of the stock of the reorganized company or its parent corporation included in the policyholders' consideration shall be placed on the effective date of the conversion in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purpose of effecting the reorganization. Under this option, the shares placed in trust shall be sold over a period of not more than ten years and the proceeds of the shares shall be distributed using the distribution priorities prescribed in the plan.

Sec. 4. NEW SECTION. 508B.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies or contracts are in force on the date of adoption of the plan of conversion. Each policyholder whose policy has been in force for at least one year prior to the date is entitled to the consideration, if any, provided for the policyholder in the plan based on the policyholder's membership interest determined pursuant to this chapter, but only to the extent that the policyholder's membership interest arose from policies or contracts in force on the effective date of the conversion and which were in force for at least one year prior to the date of adoption of the plan. For this purpose, any changes in status of, or premiums in excess of those required on the policies or contracts occurring or made after the date one year prior to the date of adoption of the plan shall be disregarded.

Sec. 5. NEW SECTION. 508B.5 APPOINTMENT OF CONSULTANT.

A plan may provide for the appointment by the mutual company of a person as defined in section 4.1, subsection 13, who is qualified to act as a consultant. The appointment of the consultant shall be reviewed by the commissioner and unless the commissioner finds the consultant unqualified, the consultant shall carry out the duties required by the mutual company and this chapter.

The consultant may assist in determining the equity or value of the policyholders and the mutual company. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for their membership interests or into which the membership interest is to be converted and may consider the valuations necessary to carry out the plans provided for in section 508B.3. Valuations shall be made taking into account the latest filed annual statement of the mutual company and any significant developments occurring subsequent to the date of the statement.

The findings of the consultant may be modified by the mutual company at any time so long as the results are not unfair or inequitable to policyholders.

If it can be shown by the mutual company to the commissioner that an underwriter of the shares is a qualified person, the underwriter may be appointed as the consultant.

**Sec. 6. NEW SECTION. 508B.6 APPROVAL OF PLAN BY POLICYHOLDERS – NOTICE OF ELECTION – EFFECTIVE DATE.**

After the plan has been approved by the commissioner as provided in section 508B.7, the plan of conversion shall be submitted to and shall not take effect until approved by two thirds of the policyholders of the mutual company voting on the plan. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with the articles of incorporation or bylaws of the mutual company. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual company. Voting shall be by ballot, in person or by proxy. A quorum shall consist of a quorum as defined in the articles of incorporation or bylaws of the mutual company. A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. The notice of meeting may contain the notice of any planned public hearing. An approved plan of conversion shall take effect on the date specified in the plan.

**Sec. 7. NEW SECTION. 508B.7 REVIEW OF PLAN BY COMMISSIONER – HEARING AUTHORIZED – FINAL APPROVAL.**

The commission\* of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, is not unfair or inequitable to the mutual company and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders and other interested persons, all of whom have the right to appear at the hearing.

**Sec. 8. NEW SECTION. 508B.8 PAYMENT OF FEES, SALARIES AND COSTS.**

A director, officer, agent or employee of the mutual company shall not receive a fee, commission or other valuable consideration, other than regular salary and compensation, for aiding, promoting or assisting in the conversion except as set forth in the plan approved by the commissioner. This section does not prohibit the payment of reasonable fees and compensation to a consultant, attorneys at law, accountants, actuaries or other persons specifically employed for services performed in the practice of their professions while completing the plan of conversion, even if these persons are directors of the mutual company.

**Sec. 9. NEW SECTION. 508B.9 APPROVAL OF PLAN – ACT OF CONVERSION – CONTINUATION OF COMPANY.**

When the commissioner approves the conversion plan as provided in this chapter, the commissioner shall issue a new certificate of authority to the reorganized company effective on

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\*According to enrolled Act



the date specified in the plan. The reorganized company is a continuation of the mutual life insurance company and the conversion shall not annul or modify any of the mutual company's existing suits, contracts or liabilities except as provided in the approved conversion plan. All rights, franchises and interests of the mutual company in and to property, assets, and other interests shall be transferred to and shall vest in the reorganized company and the reorganized company shall assume all obligations and liabilities of the mutual company.

The reorganized company, shall exercise all rights and powers and perform all duties conferred or imposed by law on life insurance companies writing the classes of insurance written by it, and shall retain the rights and contracts existing before conversion, subject to provisions of the plan.

Sec. 10. NEW SECTION. 508B.10 CONTINUATION OF OFFICERS.

The directors and officers of the mutual company shall serve the reorganized company until new directors and officers are elected and qualify pursuant to the articles of incorporation and bylaws of the reorganized company.

Sec. 11. NEW SECTION. 508B.11 RULES.

The commissioner shall issue rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 12. NEW SECTION. 508B.12 AMENDMENTS — WITHDRAWAL.

At any time before approval of the plan of conversion and pursuant to rules issued by the commissioner, the board of directors of a mutual company may amend the conversion plan. The board of directors of a mutual company may withdraw the plan of conversion at any time prior to the approval of the plan of conversion.

Sec. 13. NEW SECTION. 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, an officer or director, including family members and their spouses, of the mutual company or the reorganized company, shall not directly or indirectly offer to acquire or acquire the beneficial ownership of the reorganized company unless the acquisition is made pursuant to a stock option plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase. As used in this section, "beneficial ownership" means with respect to any security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security, and "family member" includes a brother, sister, spouse, parent, grandparent, ancestor, or descendant of the officer or director.

Sec. 14. NEW SECTION. 508B.14 LIMITATION OF ACTIONS.

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than one hundred eighty days following the date of approval by the commissioner.

The reorganized company or any defendant may require the plaintiff in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 15. NEW SECTION. 508B.15 DUTIES OF SECRETARY OF STATE.

After approval of the conversion plan by the commissioners, the secretary of state shall accept for filing a verified copy of the amended articles of incorporation.

Sec. 16. This Act applies to plans of conversion established after the effective date of this Act.

Approved May 15, 1985

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## CHAPTER 128

### HAZARDOUS CHEMICALS INTERAGENCY COORDINATING COUNCIL

*H.F. 709*

**AN ACT** relating to the hazardous chemicals interagency coordinating council.

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

Section 1. Section 455D.16, subsection 1, Code 1985, is amended to read as follows:

1. A hazardous chemicals information interagency coordinating council is created. The council shall be organized under chapter 28E. The council is composed of three voting members consisting of the designee of the commissioner of public health, the designee of the labor commissioner, and the designee of the executive director of the department of water, air and waste management. There are ~~five~~ six nonvoting advisory members consisting of the designee of the director of the office of disaster services, the designee of the chief officer of the division of fire protection of the department of public safety, the designee of the head of the state hygienic laboratory, a person representing business and industry, ~~and~~ a person representing labor, and a person representing the public generally. The business, ~~and~~ labor and public representatives shall be appointed by the governor.

Approved May 15, 1985

**CHAPTER 129**  
**LIMITS ON LICENSED PRACTICAL NURSES**  
*H.F. 160*

**AN ACT** removing the exception which allows licensed practical nurses to staff an authorized ambulance service or rescue squad service.

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

Section 1. Section 147A.12, Code 1985, is amended to read as follows:

**147A.12 REGISTERED OR LICENSED PRACTICAL NURSE EXCEPTION.**

1. ~~Nothing in this~~ This chapter ~~shall does not~~ restrict a registered ~~or~~ licensed practical nurse, licensed pursuant to chapter 152, from staffing an authorized ambulance service or rescue squad service provided the registered nurse ~~or~~ licensed practical nurse can document equivalency through education and additional skills training essential in the delivery of prehospital emergency care. The equivalency shall be accepted when:

a. Documentation has been reviewed and approved at the local level by the medical director of the ambulance or rescue squad service in accordance with the rules of the board of nursing developed jointly with the board of medical examiners.

b. Authorization has been granted to that ambulance or rescue squad service by the council.

2. Section 147A.10 applies to a registered nurse ~~or a licensed practical nurse~~ in compliance with this section.

Approved May 15, 1985

**CHAPTER 130**  
**WAIVER OF JUVENILE COURT JURISDICTION**  
*H.F. 204*

**AN ACT** relating to the waiver of the juvenile court's jurisdiction for the alleged commission of public offenses.

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

Section 1. Section 232.45, subsections 1, 4, 6, 8, and 10, Code 1985, are amended to read as follows:

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction over the child for the alleged commission of the public offense.

4. Prior to the waiver hearing, the juvenile probation officer or other person or agency designated by the court shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the child for the alleged commission of the public offense and shall submit a report concerning ~~such~~ the investigation to the court. The report shall include any recommendations made concerning waiver. Prior to the hearing the court shall provide the child's counsel and the county attorney with access to the report and to all written material to be considered by the court.

6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child for the alleged commission of the public offense if all of the following apply:

a. The child is fourteen years of age or older; ~~and.~~

b. The court determines, or has previously determined in a detention hearing under section 232.44, that there is probable cause to believe that the child has committed a delinquent act which would constitute a the public offense; ~~and.~~

c. The court determines that the state has established that there are not reasonable prospects for rehabilitating the child ~~in the event if~~ the juvenile court retains jurisdiction over the child and the child is adjudicated to have committed ~~a the~~ delinquent act, and that waiver of the court's jurisdiction over the child for the alleged commission of the public offense would be in the best ~~interest~~ interests of the child ~~or~~ and the community.

8. If at the conclusion of the hearing the court waives its jurisdiction over the child for the alleged commission of the public offense, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

10. If the court waives its jurisdiction over the child for the alleged commission of the public offense so that the child may be prosecuted as an adult, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution ~~over the objection of~~ if the child objects.

Sec. 2. Section 232.45, Code 1985, is amended by adding after subsection 10 the following new subsection:

NEW SUBSECTION. 11. The waiver does not apply to other delinquent acts which are not alleged in the delinquency petition presented at the waiver hearing.

Approved May 15, 1985

**CHAPTER 131**  
**INTERPRETERS FOR HEARING IMPAIRED PERSONS**

*H.F. 526*

**AN ACT** relating to interpreters for certain hearing impaired persons.

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

Section 1. Section 622B.1, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. "Hearing impaired person" means a person whose hearing is so impaired so that the person cannot understand oral communication when spoken in a normal conversational tone and must rely primarily on sign language to communicate, and also includes a person who, ~~because of a speech or other physical impairment,~~ is unable to orally communicate with other persons and therefore relies primarily on sign language to communicate.

Sec. 2. Section 804.31, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

804.31 ARREST OF HEARING IMPAIRED PERSON — USE OF INTERPRETERS.

When a person is detained for questioning or arrested for an alleged violation of a law or ordinance and there is reason to believe that the person is hearing impaired, the peace officer making the arrest or taking the person into custody or any other officer detaining the person shall determine if the person is a hearing impaired person as defined in section 622B.1. If the officer so determines, the officer, at the earliest possible time and prior to commencing any custodial interrogation of the person, shall procure a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court under section 622B.1 unless the hearing impaired person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the Iowa department of health and the Iowa county attorneys association. The interpreter shall interpret the officer's warnings of constitutional rights and protections and all other warnings, statements, and questions spoken or written by any officer, attorney, or other person present and all statements and questions communicated in sign language by the hearing impaired person.

This section does not prohibit the request for and administration of a preliminary breath screening test or the request for and administration of a chemical test of a body substance or substances under chapter 321B prior to the arrival of a qualified interpreter for a hearing impaired person who is believed to have committed a violation of section 321.281. However, upon the arrival of the interpreter the officer who requested the chemical test shall explain through the interpreter the reason for the testing, the consequences of the person's consent or refusal, and the ramifications of the results of the test, if one was administered.

When an interpreter is not readily available and the hearing impaired person's identity is known, the person may be released by the law enforcement agency into the temporary custody of a reliable family member or other reliable person to await the arrival of the interpreter, if the person is eligible for release on bail and is not believed to be an immediate threat to the person's own safety or the safety of others.

An answer, statement, or admission, oral or written, made by a hearing impaired person in reply to a question of a law enforcement officer or any other person having a prosecutorial function in a criminal proceeding is not admissible in court and shall not be used against the hearing impaired person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the hearing impaired person had waived the right to an interpreter pursuant to this section. In the event of a waiver and criminal proceeding, the court shall determine whether the waiver and any subsequent answer, statement, or admission made by the hearing impaired person were knowingly, voluntarily, and intelligently made.

When communication occurs with a person through an interpreter pursuant to this section, all questions or statements and responses shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and hearing impaired parties. An interpreter shall not be compelled to answer any question or respond to any statement that serves to violate that role at the time of questioning or arrest or at any subsequent administrative or judicial proceeding.

An interpreter procured under this section shall be paid a reasonable fee and expenses by the governmental subdivision funding the law enforcement agency that procured the interpreter.

Approved May 15, 1985

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## CHAPTER 132

### VIOLATION OF CUSTODIAL ORDER

*H.F. 641*

**AN ACT** relating to the violation of a custodial order and providing penalties.

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

Section 1. Section 710.6, Code 1985, is amended to read as follows:

#### 710.6 VIOLATING CUSTODIAL ORDER.

Any A relative of a child who, acting in violation of any an order of any court which fixes, permanently or temporarily, the custody of such the child in another, takes and removes such child from the state, and conceals the child's whereabouts without the consent of child, within or outside the state, from the person having lawful custody, commits a class "D" felony.

Any parent of a child living apart from the other parent who takes and conceals that child from another within the state in violation of a custodial order and without the other parent's consent shall be guilty of a serious misdemeanor.

Any A parent of a child living apart from the other parent who conceals that child in violation of a court order granting visitation rights and without the other parent's consent, shall be guilty of commits a serious misdemeanor.

Approved May 15, 1985

**CHAPTER 133**  
**SOIL CONSERVATION AGREEMENTS**  
*H.F. 66*

**AN ACT** requiring state agencies to enter into agreements with soil conservation districts for the control of soil erosion on state land in cultivation under the agencies' control.

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

Section 1. NEW SECTION. 467A.54

Each state agency shall enter into an agreement with the soil conservation district in which the state agency has public land under its control in cultivation. The agreement shall contain a plan of the state agency to prevent soil erosion in excess of soil loss limits by the use of soil and water conservation practices and erosion control practices. This section applies to all public land which is used for horticultural or agricultural purposes. State soil conservation cost-sharing funds shall not be used on these public lands. Conservation plans required by this section shall be completed by July 1, 1986, and implementation shall occur consistent with the schedule contained in the conservation plan. Application for exemption from this section may be submitted to the appropriate soil conservation district. The exemption shall be granted for land upon which soil management research for the purposes of the study, evaluation, understanding and control of erosion, sedimentation and run-off water is conducted by or in conjunction with institutions governed by the board of regents.

Approved May 16, 1985

**CHAPTER 134**  
**DISPUTE RESOLUTION CENTERS**  
*H.F. 128*

**AN ACT** creating a program for the establishment and support of dispute resolution centers to provide informal procedures for the resolution of minor disputes.

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

Section 1. The general assembly finds that informal dispute resolution procedures using impartial mediators should be available throughout the state for the resolution of minor disputes as an alternative to formal judicial proceedings; that informal dispute resolution procedures can be effective in a wide variety of circumstances, including the resolution of civil claims and disputes, certain family law disputes, juvenile offenses and criminal complaints; that informal dispute resolution procedures can be less costly, more flexible and more satisfying to the parties than formal proceedings in an adversarial setting; and that voluntary diversion of many minor disputes to dispute resolution centers will help to relieve congestion in the courts.

Sec. 2. NEW SECTION. 679.1 DEFINITIONS.

As used in this chapter:

1. "Approved center" or "approved dispute resolution center" means a center that has applied for and received approval from the executive director under section 679.3.

2. "Center" or "dispute resolution center" means a program which is organized by one or more governmental subdivisions or nonprofit organizations and which makes informal dispute resolution procedures available.

3. "Council" means the prosecuting attorneys training coordinator council in the department of justice, established by chapter 13A.

4. "Dispute resolution process" or "informal dispute resolution process" means a process by which the parties involved in a minor dispute voluntarily agree to enter into informal discussion and negotiation with the assistance of a mediator or member of the center's staff in order to resolve their dispute.

5. "Executive director" means the executive director of the prosecuting attorneys training coordinator council.

6. "Mediator" means a person who assists parties involved in a minor dispute to reach a mutually acceptable resolution of their dispute.

Sec. 3. NEW SECTION. 679.2 DISPUTE RESOLUTION PROGRAM — ADMINISTRATION.

1. There is established in the office of prosecuting attorneys training coordinator of the department of justice a program for the establishment and support of locally organized dispute resolution centers which make informal dispute resolution procedures available. The executive director of the prosecuting attorneys training coordinator council shall administer the program under the direction of the council.



2. The executive director, subject to approval by the council, may appoint an advisory committee to advise the executive director and the council on the administration of the dispute resolution program. If an advisory committee is appointed it shall consist of not more than seven members and shall include at least three representatives of existing dispute resolution centers. The committee shall meet at the call of the executive director. Members shall serve without compensation but are entitled to actual expenses incurred in the performance of their duties. Payment shall be made from funds appropriated to the council for the administration of the dispute resolution program.

**Sec. 4. NEW SECTION. 679.3 ESTABLISHMENT AND APPROVAL OF DISPUTE RESOLUTION CENTERS.**

A center, or entity proposing a center, may apply to the executive director for approval to participate in the dispute resolution program. The application shall set forth a plan for operation of the center, including such information as the center's objectives, areas or populations to be served, administrative organization, budget, recordkeeping, criteria for accepting cases, availability of mediators, and procedures for receiving and screening requests, scheduling and conducting sessions with the mediator, and terminating the dispute resolution process through agreement or otherwise. The executive director shall prescribe the form of application and specify the information to be included and shall set the deadline for filing. A center must submit an application for each year in which it desires to participate in the program.

The executive director shall review the applications and shall approve for participation in the program all applicants which meet the requirements of this chapter and rules adopted pursuant to this chapter.

**Sec. 5. NEW SECTION. 679.4 FUNDING OF DISPUTE RESOLUTION CENTERS.**

1. The executive director, subject to approval by the council, shall distribute state grants to approved dispute resolution centers from funds appropriated for that purpose. The amount distributed may vary among the centers based on need. The state grant shall not exceed fifty percent of the estimated annual cost of a center.

2. The administrator of each center may accept and disburse the state grants and grants and gifts from federal and other public and private sources for the operation of the center. Centers are encouraged to make use of local resources whenever possible, including the use of volunteers and available space in public facilities.

3. The executive director may accept and disburse grants and gifts from federal and other public and private sources for the dispute resolution program.

**Sec. 6. NEW SECTION. 679.5 REFERRALS TO DISPUTE RESOLUTION CENTERS.**

1. The following types of cases may be accepted for dispute resolution at an approved dispute resolution center, subject to such limitations as the council prescribes by rule:

- a. Civil claims and disputes, including but not limited to neighborhood disputes, landlord-tenant disputes, debtor-creditor disputes and consumer complaints.
- b. Disputes concerning child custody and visitation rights.
- c. Juvenile offenses.
- d. Criminal complaints.

2. A center may accept cases referred by a court, prosecuting attorney, law enforcement officer, social service agency or any other interested person or agency, or at the request of the parties involved in the dispute. A case may be referred prior to the commencement of formal judicial proceedings or at any stage of such proceedings. The center shall provide follow-up information on the disposition of a case if the case was referred by a court and the court requests the information.

Sec. 7. NEW SECTION. 679.6 PRELIMINARY INFORMATION.

Before the dispute resolution process begins, the approved dispute resolution center shall provide the parties with a written statement setting forth the procedures to be followed. The statement shall be in the form prescribed in the rules adopted by the council under this chapter.

Sec. 8. NEW SECTION. 679.7 FEES.

Except as otherwise provided in this section, an approved dispute resolution center shall require each party to pay a fee to help defray the administrative costs of the dispute resolution process. The council shall establish a sliding scale of fees to be charged, based upon ability to pay. A person shall not be denied the services of a dispute resolution center solely because of inability to pay the fee.

Sec. 9. NEW SECTION. 679.8 MEDIATORS.

An impartial mediator shall be assigned to each case scheduled for a mediation session. A person is not eligible to serve as a mediator in an approved center until the person has completed at least twenty-five hours of training in conflict resolution techniques approved by the executive director. The council may by rule establish classifications of disputes and provide that a person is not eligible to serve as a mediator in a particular class of dispute unless the person possesses additional credentials or completes additional specialized training, or both.

A center may provide for the compensation of mediators or utilize the services of volunteer mediators, or both.

The mediator shall assist the parties to reach a mutually acceptable resolution of their dispute through discussion and negotiation. The mediator shall officially terminate the dispute resolution process if the parties are unable to agree. The termination shall be without prejudice to either party in any other proceeding. The mediator and the center have no authority to make or impose any adjudication, sanction or penalty upon the parties.

Sec. 10. NEW SECTION. 679.9 AGREEMENT.

If the parties involved in the dispute reach agreement, the agreement may be reduced to writing and signed by the parties. The agreement shall set forth the settlement of the issues and the future responsibilities of each party.

Sec. 11. NEW SECTION. 679.10 RULES.

The council shall adopt rules to carry out the purposes of this chapter. In addition to matters expressly required elsewhere in this chapter, the rules may include the following:

1. Requirements relating to the administration of a dispute resolution center, including budgeting, recordkeeping, reporting, evaluation and administrative organization.
2. Requirements for advisory committees to assist dispute resolution centers.
3. Procedures to be followed in the dispute resolution process.
4. Forms to assist dispute resolution centers in carrying out their duties.

Sec. 12. NEW SECTION. 679.11 REPORT.

The executive director shall report annually to the general assembly and the governor concerning the operation of the dispute resolution program.

Sec. 13. NEW SECTION. 679.12 CONFIDENTIALITY.

All verbal or written information relating to the subject matter of an agreement and transmitted between any party to a dispute and a mediator or the staff of an approved center or any other person present during any stage of a dispute resolution process conducted by an approved center, whether reflected in notes, memoranda, or other work products in the case files, are confidential communications except as otherwise expressly provided in this chapter. Mediators and center staff members shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

However, when a governmental subdivision is a party to a dispute which has been scheduled for a mediation session, the facts and circumstances surrounding the dispute and any other information provided by the governmental subdivision are not confidential.

This section does not prohibit the release of information to the referring agency or authority regarding the disposition of a case which arose from a criminal complaint and was referred by a court or prosecuting attorney. Nor does this section apply where a mediator or center staff member has reason to believe that a party to a dispute has given perjured evidence.

Sec. 14. NEW SECTION. 679.13 LIMITATION ON LIABILITY.

No mediator, employee or agent of a center, or member of a center's board may be held liable for civil damages for any statement or decision made in the process of dispute resolution unless the mediator, employee, agent or member acted in bad faith, with malicious purpose or in a manner exhibiting willful and wanton disregard of human rights, safety or property.

Sec. 15. NEW SECTION. 679.14 TOLLING OF STATUTE OF LIMITATIONS.

During the period of the dispute resolution process, any applicable statute of limitations is tolled as to the participants. The tolling shall commence on the date the center accepts the case and shall end on the date the parties are notified in writing that the case has been closed by the center. Notices of the closing of cases shall be provided in accordance with appropriate rules adopted under this chapter.

Sec. 16. Section 22.7, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. Memoranda, work products and case files of a mediator and all other confidential communications in the possession of an approved dispute resolution center, as provided in chapter 679. Information in these confidential communications is subject to disclosure only as provided in section 679.12, notwithstanding this chapter.

Approved May 16, 1985

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**CHAPTER 135**  
**ELECTION OF HOSPITAL TRUSTEES**  
*H.F. 255*

**AN ACT** relating to the election of hospital trustees.

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

Section 1. Section 347.25, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The election of hospital trustees whose offices are established by this chapter or chapter 145A or 347A shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by fifty eligible electors of the county ~~equal in number to one percent of the vote cast for president of the United States or governor, as the case may be, by both political parties in the last previous general election,~~ and shall be filed with the county commissioner of elections at least fifty-five days prior to the date of said the general election. A plurality ~~shall be~~ is sufficient to elect hospital trustees, ~~it being the intent that there be no primary election.~~

Sec. 2. Section 358.9, unnumbered paragraph 1, Code 1985, is amended to read as follows:

At the election provided for in section 358.7, the names of candidates for trustee of the district shall be written by the voters on blank ballots without formal nomination, and the board of supervisors which had jurisdiction of the proceedings for establishment of the sanitary district, together with the board of supervisors of any other county in which any part of the district is located, shall appoint three trustees from among the five persons receiving the greatest number of votes as trustees of the district. One of the trustees shall be designated to serve a term expiring on the first day of January which is not a Sunday or legal holiday following the next general election, one to serve a term expiring on the first day of January which is not a Sunday or legal holiday two years later, and one to serve a term expiring on the first day of January which is not a Sunday or legal holiday four years later. Thereafter, each term shall be for a term of years established by the board of supervisors, not less than three years or more than six years. Successors to the initial trustees may be chosen by appointment by the same board or boards of supervisors which made the initial appointments or by election, at the option of the remaining trustees. If election is chosen, a successor shall be elected at the general election preceding the expiration of the term to be filled.

Approved May 16, 1985

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## CHAPTER 136

### VENTURE CAPITAL INVESTMENT

*H.F. 460*

**AN ACT** relating to the investment of the assets of insurance companies, state banks, state savings banks, state savings and loan associations and credit unions in venture capital firms\* making investments in small businesses in the state and in small businesses operating in this state.

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

Section 1. Section 511.8, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 20. VENTURE CAPITAL FUNDS.** Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the funds in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. A company shall not invest more than five percent of its legal reserve under this subsection. For purposes of this subsection, "venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance

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\*According to enrolled Act

to, small businesses which meet the small business administration definition of small business. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

Sec. 2. Section 515.35, subsection 4, Code 1985, is amended by adding the following new lettered paragraph after lettered paragraph l and relettering the remaining paragraphs:

NEW LETTERED PARAGRAPH. m. Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the investments by a company in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. A company shall not invest more than five percent of its capital and surplus under this paragraph. For purposes of this paragraph, "venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

Sec. 3. Section 524.901, subsection 3, Code 1985, is amended by adding the following two new lettered paragraphs:

NEW LETTERED PARAGRAPH. g. Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the state bank's investment in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. A state bank shall not invest more than a total of five percent of its capital and surplus in investments permitted under this paragraph and paragraph "h". For purposes of this paragraph, "venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

NEW LETTERED PARAGRAPH. h. Shares or equity interests in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. The total amount of a state bank's investments under this paragraph and paragraph "g" shall not exceed five percent of the state bank's capital and surplus. The investment of a state bank in a small business under this paragraph shall be included with the obligations of the small business to the state bank that are incurred as a result of the exercise by the state bank of the powers conferred in section 524.902 for the purpose of determining the total obligations of the small business to the state bank at any one time under section 524.904. A state bank shall not invest in more than twenty percent of the total capital and surplus of any one small business under this paragraph. For purposes of this paragraph, "small business" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, which meets the appropriate small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state or other investments which provide an economic benefit to the state; and "equity interests" means limited partnership

interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

**Sec. 4. NEW SECTION. 533.47 INVESTMENT IN CERTAIN SHARES OR EQUITY INTERESTS.**

1. A credit union may invest in either of the following to the extent that the total investments under this section shall not be more than five percent of the credit union's assets:

a. Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the credit union's investment in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state.

b. Shares or equity interests in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. A credit union shall not invest in more than twenty percent of the total capital and surplus of any one small business under this paragraph.

2. For purposes of this section:

a. "Venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business.

b. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

c. "Small business" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, which meets the appropriate small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state or other investments which provide an economic benefit to the state.

Sec. 5. Section 534.213, subsection 1, Code 1985, is amended by adding the following two new lettered paragraphs:

**NEW LETTERED PARAGRAPH. l.** Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the association's investment in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. An association shall not invest more than a total of five percent of its assets in investments permitted under this paragraph or paragraph "m". For purposes of this paragraph, "venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provisions of significant managerial assistance to, small businesses which meet the small business administration definition of small business. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

**NEW LETTERED PARAGRAPH. m.** Shares or equity interests in small businesses having their principal offices within this state and having either more than one half of their

assets within this state or more than one half of their employees employed within this state. The total amount of an association's investments under this paragraph shall not exceed five percent of the association's capital and surplus. An association shall not invest in more than twenty percent of the total capital and surplus of any one small business under this paragraph. For purposes of this paragraph, "small business" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, which meets the appropriate small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state or other investments which provide an economic benefit to the state; and "equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of investment, but does not mean general partnership interests or other interests involving general liability.

Approved May 16, 1985

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**CHAPTER 137**  
**MINING OF ORES AND MINERALS**  
*H.F. 540*

**AN ACT** relating to the mining of ores and minerals other than coal and authorizing a penalty.

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

Section 1. Section 83A.1, Code 1985, is amended to read as follows:

**83A.1 POLICY.**

It is ~~hereby declared to be~~ the policy of this state to provide for the ~~rehabilitation~~ reclamation and conservation of land affected by surface mining and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

Sec. 2. Section 83A.2, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation.

Sec. 3. Section 83A.2, subsections 4 and 5, Code 1985, are amended by striking the subsections and inserting in lieu thereof the following:

4. "Mine site" means a site where surface mining is being conducted or has been conducted in the past and the operator anticipates further surface mining operations, or the surface operation related to an underground mine.

Sec. 4. Section 83A.2, subsection 7, Code 1985, is amended to read as follows:

7. "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited or both, including crushing areas and stockpile areas but not including roads.

Sec. 5. Section 83A.2, subsection 8, Code 1985, is amended by striking the subsection.

Sec. 6. Section 83A.3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

There is hereby established within the department of soil conservation a land ~~rehabilitation~~ reclamation advisory board which shall consist of seven members appointed by the governor, as follows:

Sec. 7. Section 83A.6, Code 1985, is amended to read as follows:

#### 83A.6 DUTIES OF BOARD.

The advisory board shall:

1. Advise the department on any matter relating to administration and enforcement of this chapter and chapters 83 and 84.

2. Advise the department with respect to surface mined land ~~rehabilitation~~ reclamation demonstration projects.

3. Advise the department on the gathering, preparation, and dissemination of information on methods of ~~rehabilitating~~ reclaiming land which has been surface mined and on any state, federal, or other financial assistance which may be available to assist in paying the cost of ~~rehabilitation~~ reclamation of the land.

The department shall inform the advisory board of all complaints received relating to mining and mining operations.

Sec. 8. Section 83A.8, Code 1985, is amended to read as follows:

#### 83A.8 SUSPENSION OR REVOCATION OF LICENSE.

The department may, with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this chapter ~~or the federal Metal and Nonmetallic Mine Safety Act.~~ The department shall by certified mail or personal service serve on the licensee notice in writing of the charges and grounds upon which the license is to be suspended, revoked, or will not be renewed. The notice shall include the time and the place at which a hearing shall be held before the committee to determine whether to suspend, revoke, or refuse to renew the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

Sec. 9. Section 83A.9, Code 1985, is amended to read as follows:

#### 83A.9 HEARING — COUNSEL.

~~Any~~ A licensee whose license the department proposes to suspend, revoke, or refuse to renew ~~shall have~~ has the right to counsel and may produce witnesses and present statements, documents, and other information in ~~his~~ the licensee's\* behalf at the hearing. If after full investigation and hearing the licensee is found to have willfully or repeatedly violated any of the provisions of this chapter ~~or the federal Metal and Nonmetallic Mine Safety Act,~~ the committee may affirm or modify the proposed suspension, revocation, or refusal to renew the license. When the committee finds that a license should be suspended or revoked or should not be renewed, the department shall so notify the licensee in writing by certified mail or by personal service.

\*According to enrolled Act



Sec. 10. Section 83A.13, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. A mine site registered pursuant to this section or section 83A.21 shall have, at the primary entrance to the mine site, a clearly visible sign which sets forth the name, business address, registration number, and phone number of the operator. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the department, invalidates the registration.

Sec. 11. Section 83A.13, subsection 1, Code 1985, is amended to read as follows:

1. ~~Within fifteen days after~~ At least seven days before beginning mining or removal of overburden at ~~any~~ a surface mining site not previously registered, an operator engaging in mining in this state shall register the mine site with the department. Application for registration shall be made upon a form provided by the department. A registration renewal shall be filed not later than twelve months following the initial registration and each subsequent renewal. Application for renewal of registration shall be on a form provided by the department. The registration renewal fee shall be established by the department in an amount not exceeding the cost of administration. The registration fee shall be established by the department in an amount not exceeding the cost of administering the registration provisions of this chapter, as estimated by the department. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

Sec. 12. Section 83A.13, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 13. Section 83A.14, Code 1985, is amended to read as follows:

#### 83A.14 BOND.

The application for registration shall be accompanied by a bond or security as required under sections 83A.23 or 83A.24 ~~if overburden is removed~~. After ascertaining that the applicant is licensed under section 83A.7 and is not in violation of this chapter with respect to any mine site previously registered with the department, the department shall register the mine site and shall issue the applicant written authorization to ~~conduct surface mining on the site~~ operate a mine.

Sec. 14. Section 83A.17, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

#### 83A.17 RECLAMATION REQUIREMENTS.

1. An operator authorized under this chapter to operate a mine, after completion of mining operations and within the time specified in section 83A.19, shall:

a. Grade affected lands except for impoundments, pit floors, and highwalls, to slopes having a maximum of one foot vertical rise for each four feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each four feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain.

b. Provide for the vegetation of the affected lands, except for impoundments, pit floors, and highwalls, as approved by the department before the release of the bond as provided in section 83A.19.

2. Notwithstanding subsection 1, overburden piles where deposition has not occurred for a period of twelve months shall be stabilized.

3. Crushing areas and stockpile areas in place on the effective date of this Act are not subject to this section unless those areas continue to function as a part of the mine site after July 1, 1988.

4. Topsoil that is a part of overburden shall not be destroyed or buried in the process of mining.

5. The department, with concurrence of the advisory board, may grant a variance from the requirements of subsections 1 and 2.

6. A bond or security posted under this chapter to assure reclamation of affected lands shall not be released until all the reclamation work required by this section has been performed in accordance with this chapter and departmental rules, except when a replacement bond or security is posted by a new operator or responsibility is transferred under section 83A.16.

Sec. 15. Section 83A.18, Code 1985, is amended to read as follows:

**83A.18 PERIODIC REPORTS.**

~~Every~~ An operator shall file with the department a periodic report for each mine site under registration ~~indicating whether the site is presently active or inactive.~~ Each ~~The~~ report shall make reference to the most recent registration of the mine site and shall show:

1. The location and extent of all surface land area on the mine site affected by surface mining during the period covered by the report.

2. The extent to which removal of mineral products from all or any part of the affected land lands has been completed.

~~A~~ The report ~~as prescribed by this section~~ shall be filed not later than twelve months after original registration of the site and prior to the expiration of each subsequent twelve-month period ~~thereafter~~. A report shall also be filed within thirty days after completion of all surface mining operations at the site regardless of the date of the last preceding report. ~~Forms on which for the filing of periodic reports required by this section shall be filed~~ shall be provided by the department.

Sec. 16. Section 83A.19, Code 1985, is amended to read as follows:

**83A.19 REHABILITATION OF LAND RECLAMATION SCHEDULE.**

An operator of a surface mine shall rehabilitate land affected by surface mining within twelve months reclaim affected lands according to a schedule established by the department, but within a period not to exceed three years, after the filing of a report required under section 83A.18 indicating the mining of any part of a site has been completed.

PARAGRAPH DIVIDED. For certain postmining land uses, such as a sanitary land fill, the department, with the approval of the land reclamation advisory board, may allow an extended reclamation period.

PARAGRAPH DIVIDED. ~~Each~~ An operator, upon completion of any rehabilitation reclamation work required by section 83A.17, shall apply to the department in writing for approval of the work. The department shall within a reasonable time determined by departmental rule inspect the completed rehabilitation reclamation work. Upon determination by the department that the operator has satisfactorily completed all required rehabilitation reclamation work on the land included in the application, the department shall release the bond or security on the rehabilitated reclaimed land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct surface mining on the site.

Sec. 17. Section 83A.20, Code 1985, is amended to read as follows:

**83A.20 EXTENSION OF TIME.**

The time for completion of ~~rehabilitation~~ reclamation work may be extended upon presentation by the operator of evidence satisfactory to the department that ~~rehabilitation~~ reclamation of affected land cannot be completed within the time specified by section 83A.19 without unreasonably impeding removal of mineral products from other parts of an active site or future removal of mineral products from an initiative site.

Sec. 18. Section 83A.23, Code 1985, is amended to read as follows:

**83A.23 FORM OF BOND.**

~~Each~~ A bond filed with the department by an operator pursuant to this chapter shall be in a form prescribed by the department, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the department pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with the department on the same conditions as prescribed by this section for filing of bonds. The amount of the bond or other security required to be filed with an application for registration of a surface mining site, or to increase the area of a site previously registered, shall be equal to the estimated cost of ~~rehabilitating~~ reclaiming the site as required under section 83A.17. The estimated cost of ~~rehabilitation~~ reclamation of each individual site shall be determined by the department on the basis of relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, and depth of the mineral deposit being mined. The department may require an applicant for registration or amendment of registration of a site to furnish information necessary to estimate the cost of ~~rehabilitating~~ reclaiming the site. The penalty of the bond or the amount of cash or securities on deposit may be increased or reduced from time to time in accordance with section 83A.15.

Sec. 19. Section 83A.24, Code 1985, is amended to read as follows:

**83A.24 SINGLE BOND FOR MULTIPLE SITES.**

~~Any~~ An operator who registers with the department two or more surface mining sites may elect, at the time the second or ~~any~~ a subsequent site is registered, to post a single bond in lieu of separate bonds on each site. ~~Any~~ A single bond so posted shall be in an amount equal to the estimated cost of ~~rehabilitating~~ reclaiming all sites the operator has registered, determined as provided in section 83A.23. The penalty of a single bond on two or more surface mining sites may be increased or decreased from time to time in accordance with sections 83A.14, 83A.15, and 83A.19. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the department.

Sec. 20. Section 83A.28, Code 1985, is amended to read as follows:

**83A.28 FORFEITURE OF BOND.**

The attorney general, upon request of the committee, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee ~~rehabilitation~~ reclamation of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the department pursuant to this chapter. Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to ~~rehabilitate~~ reclaim affected land covered by the bond. The department shall have the power to ~~rehabilitate~~ reclaim as required by section 83A.17 any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary ~~rehabilitation~~ reclamation work.

Sec. 21. Section 83A.29, Code 1985, is amended to read as follows:

**83A.29 PENALTY PENALTIES FOR OPERATING WITHOUT A LICENSE AND FOR FAILURE TO REGISTER.**

1. If a person engages in mining without obtaining a license, the committee shall notify the attorney general who shall institute a civil action in the district court for injunctive relief and for the assessment of a civil penalty as determined by the court not to exceed five thousand dollars.

2. Any An operator who fails to make timely application for registration of each mine site where mining is being conducted is guilty of a simple misdemeanor. Each day mining activities are conducted at a mine site for which no application for registration has been made as required under section 83A.13 shall constitute is a separate violation.

3. If an operator fails to register or re-register a site and provide required bond within thirty days following receipt of notice from the department by certified letter, the committee shall notify the attorney general who shall seek immediate injunctive relief.

4. An operator who fails to renew the operator's mining license within a time period set by the department, who has been denied license renewal by the committee, or whose license has been suspended or revoked by the committee shall also have all registrations automatically invalidated.

Approved May 16, 1985

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**CHAPTER 138**

**AREA EDUCATION AGENCIES**

*H.F. 552*

**AN ACT** relating to area education agencies, including the charging of user fees, budget publication, contracting for services, and filing of candidacy papers.

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

Section 1. Section 257.10, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 16.** Adopt rules establishing permissible fees for materials and services charged by area education agencies.

Sec. 2. Section 273.3, subsections 6 and 13, Code 1985, are amended to read as follows:

6. Area education agencies may co-operate and contract between themselves and with other public agencies to provide special education programs and services, media services, and educational services to schools and children residing within their respective areas.

13. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 281 within the limits of funds provided under section 281.9 and chapter 442. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county located wholly or partially in the territory of the area education agency in which the principal place of business

of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall be not later than November 10 of each year, the time, and the location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of public instruction, on forms provided by the department, no later than December 1 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall prior to January 1 either grant approval or return the budget without approval with comments of the state board included. Any unapproved budget shall be resubmitted to the state board for final approval.

Sec. 3. Section 273.3, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Pursuant to rules adopted by the state board of public instruction, be authorized to charge user fees for certain materials and services that are not required by law or by rules of the state board of public instruction and are specifically requested by a school district or approved nonpublic school.

Sec. 4. Section 273.8, subsection 2, unnumbered paragraph 5, Code 1985, is amended to read as follows:

A candidate for election to the area education agency board ~~may~~ shall file a statement of candidacy with the area education agency secretary at least ten days prior to the date of the director district convention, on forms prescribed by the department of public instruction. The statement of candidacy shall include the candidate's name, address and school district. The list of candidates shall be sent by the secretary of the area education agency by ordinary mail to the presidents of the boards of directors of all school districts within the director district immediately following the last day for filing the statement of candidacy. ~~The filing of a statement of candidacy shall not be a prerequisite or eligibility requirement for election as an area education agency director.~~ However, if no candidate files with the area education agency secretary by the deadline, an eligible elector who is present at the director district convention may be nominated at the convention by a delegate from a board of directors of a school district located within the director district. Delegates to director district conventions shall not be bound by a school board or any school board member to pledge their votes to any candidate prior to the date of the convention.

Approved May 16, 1985

**CHAPTER 139****VAN BUREN COMMUNITY SCHOOL DISTRICT LEGALIZING ACT***H.F. 575*

**AN ACT** to legalize proceedings taken by the board of directors of the Van Buren community school district relating to the sale of certain land.

WHEREAS, there appears in the minutes of the board of directors of the Van Buren community school district in special session on August 22, 1968, a motion to list a house at Stockport, Iowa, owned by the school for sale, the description of the property legally described as:

Lot Thirty-eight (38) and the North Ten feet (10') of Lot Thirty-seven (37) in Parnitzke's Addition to the Town of Stockport, Van Buren County, Iowa; and

WHEREAS, the requirements as set out in section 297.22 and related sections of the Iowa Code were not complied with, and doubts have arisen concerning the legal sufficiency of the sale and it is deemed advisable and necessary to put such doubts and all others that might arise concerning said sale to rest; NOW THEREFORE,

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

Section 1. That all acts and proceedings taken by the board of directors of the Van Buren community school district in connection with the sale of the property described as:

Lot Thirty-eight, (38) and the North Ten feet (10') of Lot Thirty-seven (37) in Parnitzke's Addition to the Town of Stockport, Van Buren County, Iowa;

to Joseph H. Blakeley and Violet E. Blakeley are hereby legalized, validated and confirmed and constitute a valid, legal, and binding sale.

Approved May 16, 1985

**CHAPTER 140****COAL MINING PENALTY PROCEDURES***H.F. 626*

**AN ACT** to revise the procedures for the assessment of penalties under the laws regulating coal mining.

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

Section 1. Section 83.10, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 6.** Notwithstanding sections 453.7, subsection 2, and 666.3, the interest or earnings on investments or time deposits of the proceeds of a performance bond forfeited to the department, cash deposited under subsection 2, any funds provided for the abandoned mine reclamation program under section 83.21 and any civil penalties collected pursuant to sections 83.14 and 83.15 shall be credited the payment of costs and administrative expenses associated with the reclamation, restoration or abatement activities of the department. The department may expend funds credited to it under this subsection to conduct reclamation activities on any areas disturbed by coal mining not subject to a presently valid permit to conduct surface mining.

Sec. 2. Section 83.14, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 9.** When on the basis of an inspection, or other information available to the department, the director has reasonable cause to believe that the operator is unable to complete reclamation of all or a portion of the permit area as required by law, the director shall issue an order to the operator to show cause as to why all or a portion of the performance bond required by section 83.10 should not be revoked.

Sec. 3. Section 83.14, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. A permittee may request in writing an appeal to the committee of a decision made in a hearing under subsection 3 within thirty days of the decision. The committee shall review the record made in the contested case hearing, and may hear additional evidence upon a showing of good cause for failure to present the evidence in the hearing, or if evidence concerning events occurring after the hearing is deemed relevant to the proceeding. However, the committee shall not review a decision in a proceeding if the department seeks to collect a civil penalty pursuant to section 83.15, and those decisions are final agency actions subject to direct judicial review as provided in chapter 17A.

The contested case hearing shall be scheduled within thirty days of receipt of the request by the department. If the decision in the contested case is to revoke the permit, the permittee shall be given a specific period to complete reclamation, or the attorney general shall be requested to institute bond forfeiture proceedings.

Sec. 4. Section 83.14, subsection 8, Code 1985, is amended to read as follows:

8. At the request of the department, the attorney general shall institute any legal proceedings, including an action for an injunction or a temporary injunction necessary to enforce the penalty provisions of this chapter or to obtain compliance with this chapter. Injunctive

relief may be requested to enforce a cessation order issued by the director pending a hearing pursuant to subsection 4.

Sec. 5. Section 83.15, subsections 1, 2, 3 and 4, Code 1985, are amended by striking the subsections and inserting in lieu thereof the following:

1. A person who violates a permit condition, a provision of this chapter, or a rule or order issued under this chapter is subject to a civil penalty not to exceed five thousand dollars per day for each day of violation. If a violation results in the issuance of a cessation order, a civil penalty shall be imposed. The penalty shall not exceed five thousand dollars for each day of violation.

In determining the amount of the penalty, consideration shall be given to the operator's history of previous violations at the particular mining operation, the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation.

An operator who fails to correct a violation for which a notice or order has been issued within the period permitted for its correction shall be required to pay a civil penalty of not less than seven hundred fifty dollars for each day during which the failure or violations continue.

2. If a notice or order has been issued, the department may assess a recommended penalty in accordance with a schedule established by rule. The person to whom the notice or order was issued may submit written information within fifteen days of the notice or order to be considered by the department. The department shall serve the assessment by certified mail, return receipt requested, within thirty days of issuance of the notice or order. The department may reassess any penalty if necessary to consider facts not reasonably available on the date of issuance of the assessment. A person may consent to a penalty assessment by paying the penalty without resort to judicial proceedings.

If a violation results in the issuance of a cessation order pursuant to section 83.14 the department shall assess a penalty.

3. A contested case hearing may be requested pursuant to section 83.14, subsection 4, to review a notice, order, or penalty assessment. A person to whom a penalty assessment has been issued may request a contested case hearing solely for review of the amount of the penalty. A penalty assessment is final if a request for review is not made in a timely manner.

4. Judicial review of any action of the department shall be in accordance with chapter 17A. Judicial review of a penalty assessment shall not be permitted unless the petitioner has posted a bond equal to the amount of the assessed penalty in the district court or has placed the proposed amount in an interest bearing escrow fund approved by the department.

5. If a violation results in a cessation order pursuant to section 83.14, the attorney general, at the request of the department, shall institute a civil action in district court for injunctive relief.

Notwithstanding section 17A.20, an appeal bond shall be required for an appeal of a judgment assessing a civil penalty.

Approved May 16, 1985



**CHAPTER 141****COMMUNITY, SUPERVISED APARTMENT LIVING ARRANGEMENTS***H.F. 631*

**AN ACT** relating to the programming and funding of community, supervised apartment living arrangements.

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

Section 1. **NEW SECTION. 225C.19 COMMUNITY, SUPERVISED APARTMENT LIVING ARRANGEMENTS.**

1. As used in this section, "community, supervised apartment living arrangement" means the provision of a residence in a noninstitutional setting to mentally ill, mentally retarded, or developmentally disabled adults who are capable of living semi-independently but require minimal supervision.

2. The department shall adopt rules pursuant to chapter 17A establishing minimum standards for the programming of community, supervised apartment living arrangements. The department shall approve annually all community, supervised apartment living arrangements which meet the minimum standards.

3. Approved community, supervised apartment living arrangements may receive funding from the state community mental health and mental retardation services fund, federal and state social services block grant funds, and other appropriate funding sources, consistent with state legislation and federal regulations. The funding may be provided on a per diem, per hour, or grant basis, as appropriate.

Sec. 2. Section 135C.6, subsection 1, Code 1985, is amended to read as follows:

1. ~~No~~ A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate a health care facility in this state without a license for ~~such~~ the facility. A community, supervised apartment living arrangement, as defined in section 225C.19, is not required to be licensed under this chapter, but is subject to approval under section 225C.19 in order to receive public funding.

Approved May 16, 1985

**CHAPTER 142**  
**AGRICULTURAL LIMESTONE**  
*S.F. 465*

**AN ACT** relating to agricultural limestone.

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

Section 1. Section 200.8, subsection 3, Code 1985, is amended to read as follows:

3. If there is an unencumbered balance of funds in the fertilizer fund on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 and the annual license fee established pursuant to section 201.3 for the next fiscal year in such amount as will result in an ending estimated balance for the June 30 of the next fiscal year of three hundred fifty thousand dollars.

Sec. 2. Section 201.3, Code 1985, is amended to read as follows:

201.3 FEE.

The annual license fee shall be ~~twenty-five~~ determined by the secretary but shall not exceed forty dollars.

Sec. 3. Section 201.13, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

201.13 PERIODIC REPORT AND AGLIME FUND.

The moneys received under this chapter shall be deposited in the fertilizer fund as established pursuant to chapter 200, to be used by the department of agriculture only for the purpose of inspection, sampling, analyzing, preparing and publishing of reports, and other expenses necessary for the administration of this chapter. The secretary shall issue an annual report showing a statement of moneys received from license and testing fees, and a biennial report which shall be made available to the public showing the certifications of the effective calcium carbonate equivalent for all agricultural lime, limestone, or aglime certified as provided in this chapter. The report shall list the manufacturers and producers and their locations. Copies of all reports issued by the secretary pursuant to this section shall be sent to the members of the house of representatives and senate standing committees on agriculture.

Approved May 16, 1985

**CHAPTER 143**  
**SECONDARY ROAD ASSESSMENT DISTRICTS**  
*S.F. 560*

**AN ACT** relating to the establishment of and improvements within a secondary road assessment district.

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

Section 1. Section 311.1, Code 1985, is amended to read as follows:

**311.1 POWER TO ESTABLISH.**

In order to provide for the ~~graveling, oiling, or other suitable surfacing improvements such as grading, draining, bridging, aggregate surfacing, paving, or resurfacing~~ of secondary roads, the board of supervisors shall have power may, on petition, to establish secondary road assessment districts.

Sec. 2. Section 311.3, Code 1985, is amended to read as follows:

**311.3 AMOUNT OF ASSESSMENT.**

Special assessments in the aggregate amount of not less than ~~twenty-five~~ fifty percent of the total estimated cost of ~~surfacing any improvement of a~~ road included in a secondary road assessment district project shall be apportioned and levied on the lands included in ~~said~~ the secondary road assessment district.

Sec. 3. Section 311.4, Code 1985, is amended to read as follows:

**311.4 COUNTY LINE ROAD.**

~~Whenever~~ When it is desired to ~~surface improve~~ a secondary road on a county line, as a secondary road assessment district project, the board of supervisors of any county ~~concerned~~ may establish an assessment district in its county, and levy and collect special assessments for the payment of that portion of the estimated cost of ~~such the~~ project assessable against lands in that county. Each county shall pay its share of the cost of ~~said~~ the project as provided in this chapter, in the same manner as though the project were located wholly within that county.

Sec. 4. Section 311.5, Code 1985, is amended to read as follows:

**311.5 PROJECT IN CITY.**

~~Any~~ A road or street which is a continuation of a secondary road within ~~any~~ a city and which the county board desires to improve by ~~graveling, oiling, or other suitable surfacing~~, may by resolution of the county board and concurrence by the council of the city be improved as a secondary road assessment district project or part ~~thereof of a project~~ as ~~herein provided in this chapter~~. The lands within ~~such the~~ city abutting on or adjacent to ~~such the~~ street or road may be included within ~~such the~~ secondary road assessment district and assessed ~~on account of such for the~~ improvement upon the same basis and in the same manner as though ~~such the~~ lands were located outside of a city.

Sec. 5. Section 311.6, Code 1985, is amended to read as follows:

**311.6 PETITION — INFORMATION REQUIRED.**

The petition for a secondary road assessment district proposing to establish ~~such the~~ district shall intelligibly describe the road or roads proposed to be improved, the nature of the proposed improvement, the percentage of the estimated cost of the ~~surfacing of said improv-~~ing the road proposed to be assessed against the property in the ~~said~~ district and the lands proposed to be included in ~~such the~~ district.

~~Such~~ The petition shall be signed by ~~thirty-five~~ fifty percent of the owners of the lands within ~~such the~~ proposed district, or by ~~thirty-five~~ fifty percent of the owners of the land within ~~such the~~ proposed district who reside within ~~said the~~ county.

Sec. 6. Section 311.7, Code 1985, is amended to read as follows:

**311.7 IMPROVEMENT BY PRIVATE FUNDS.**

The owner or a group of owners of not less than seventy-five percent of the lands adjacent to, or abutting upon any secondary road may, on or before October 1 of any year, petition the board of supervisors of their county for the ~~improving by graveling or other suitable surfac-~~ing, of ~~such improvement of the road,~~ and for the assessment of not less than fifty percent, (or ~~such a greater portion as may be provided in said the petition~~), of the cost of ~~such improving,~~ by ~~graveling or other suitable surfacing the improvement,~~ to the lands adjacent to, or abutting upon ~~such the~~ road. When the petition has been filed, the board of supervisors shall review the project proposed by the petition and may accept or reject the proposed project. If the board of supervisors accepts the petition, the board shall include ~~such the~~ project in the secondary road construction program of ~~said the~~ county and establish a priority for the completion of ~~such the~~ project.

The board of supervisors shall proceed with the construction and completion of ~~said the~~ project in accordance with its assigned priority and under the same procedure as is prescribed generally for the improvement of secondary roads by assessment, and shall, ~~as the law may provide,~~ establish a special secondary road assessment district and assess against the lands included ~~therein in the district~~ not less than fifty percent, (or ~~such a greater portion as may be provided in said the petition~~), of the engineer's estimated cost of the ~~surfacing improvements of the road or roads included in said the project~~ against all the lands adjacent to or abutting upon the ~~said road or roads~~.

~~Provided, that should~~ However, if the ~~owner or~~ owners of all the lands included in any special secondary road assessment district under this section, subscribe and deposit with the county treasurer an amount not less than fifty percent, (or ~~such a greater portion as may be provided in said the petition~~), of the engineer's estimated cost of the ~~surfacing improvement of the road or roads included in said the project,~~ the board of supervisors shall not establish ~~such the~~ special assessment district ~~as herein provided,~~ but shall accept the ~~said~~ donations in lieu of an assessment, and shall otherwise proceed to the improvement of ~~said the~~ road ~~or roads~~ as herein provided.

~~Provided further, that the~~ The total expenditure of secondary road funds of the county in any year for or on account of special secondary road assessment district projects on local secondary roads under this section shall not exceed the total secondary road funds legally expendable for construction on local secondary roads in ~~said the~~ county in ~~said the~~ year, and the expenditure of secondary road funds of the county, in any township in any three-year period, for or on account of special secondary road assessment district projects on local secondary roads under this section, shall not exceed ~~said township's pro rata share, on the area basis, of the total secondary road funds legally expendable for construction on local secondary roads in said county in said three-year period,~~ unless there be a township or townships from which there are no petitions filed during the first two years of ~~said three-year period~~.

If the engineer's estimated cost of the grading, bridges, culverts, and draining of the road proposed to be included in any special assessment district project under this section, exceeds an average of seven thousand dollars per mile, the board of supervisors of said county may appeal to the state transportation commission as to whether the county shall proceed with the construction of said project. The state transportation commission shall hold a hearing on said matter, at a time and place of which the petitioners and the county board shall be duly notified, and shall have an opportunity to appear and be heard. After such hearing the state transportation commission shall determine whether the county shall proceed with said project, which determination shall be final.

Upon the completion of such ~~the road or roads~~, and the satisfaction of all claims in relation thereto ~~to the road~~, any balance then remaining of the funds provided by the sponsors shall be returned to them according to their respective interests, providing all guarantees made by such ~~the~~ sponsors have been fulfilled.

Any road ~~or roads~~ so improved by ~~graveling or other suitable surfacing~~ under this section shall be maintained by the county pursuant to chapter 306.

Sec. 7. Section 311.8, subsections 1, 3, and 4, Code 1985, are amended to read as follows:

1. An estimate of the cost of the surfacing improvement proposed on the road ~~or roads~~ included in such ~~the~~ proposed district.

3. An approximately equitable apportionment of not less than ~~twenty-five~~ fifty percent of the estimated cost of said ~~the~~ improvement among the tracts and parcels of real estate included in such ~~the~~ proposed district.

4. A statement whether all of the secondary roads to be surfaced improved in said ~~the~~ proposed secondary road assessment district project have been built to permanent grade and properly drained.

Sec. 8. Section 311.11, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The board of supervisors shall fix a time for hearing on the proposal for the establishment of the secondary road assessment district and on the apportionment of not less than ~~twenty-five~~ fifty percent of the estimated cost of the proposed improvement, and shall cause the county engineer to publish notice of the hearing. The notice shall state:

Sec. 9. Section 311.29, Code 1985, is amended to read as follows:

311.29 SALE OF CERTIFICATES.

Upon the signing of each of the certificates by the chairperson of the board, the certificates shall be delivered to the county treasurer, who shall countersign them and who shall be responsible for them on the treasurer's bond. The treasurer may apply the certificates in payment of warrants duly authorized and issued for surfacing improving the roads within the district, or the treasurer may sell the certificates for the best attainable price and for not less than par, plus accrued interest. The certificates shall be retired in the order of their numbering.

Approved May 16, 1985

**CHAPTER 144****URBAN DRAINAGE DISTRICT IMPROVEMENT***S.F. 568*

**AN ACT** relating to drainage improvements by counties and providing for assessing the benefits of the improvements, issuing bonds, and imposing rates for its use, benefit, and connection.

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

Section 1. Chapter 331, division IV, Code 1985, is amended by adding the following new sections as a separate part:

**NEW SECTION. 331.485 DEFINITIONS.**

As used in this part, unless the context otherwise requires:

1. "Drainage improvement" includes the construction, improvement, or repair of the principal structures, works, component parts and accessories of a storm sewer, drainage conduit, channel, or levee for the collection, detention, or discharge of drainage or surface waters.

2. "Urban drainage district" or "district" means a district defined by a county and one or more cities within the county pursuant to an agreement entered into by the county and cities in accordance with chapter 28E and this part with respect to drainage improvements which the county and cities determine benefit the property located in the cities and the designated unincorporated area of the county.

3. "Cost" means the same as defined in section 384.37, subsection 6.

**NEW SECTION. 331.486 ASSESSMENT OF COSTS OF DRAINAGE IMPROVEMENTS.**

A county may assess to property within an urban drainage district the cost of a drainage improvement within the county and drainage facilities extending outside the county. A county is empowered to proceed and construct and to assess the cost of a drainage improvement within a district in the same manner as a city may proceed under division IV of chapter 384 and the provisions of division IV of chapter 384 apply to counties with respect to drainage improvements, the assessment of their costs and the issuance of bonds for the improvements. A county may contract for a drainage improvement within a district under this part pursuant to part 3 of division III of chapter 331.

**NEW SECTION. 331.487 SPECIAL ASSESSMENT BONDS.**

A county may issue special assessment bonds in anticipation of the collection of special assessments for the cost of drainage improvements within a district in the same manner as provided for cities under division IV of chapter 384.

**NEW SECTION. 331.488 CHAPTER 28E AGREEMENT.**

An agreement entered into between a city and a county in accordance with chapter 28E with respect to a drainage improvement may include among others the following provisions:

1. The sharing of the total cost of the drainage improvement between the city and the county.

2. The amount of total assessments against private property within the city and within the unincorporated area of the county included within the district.

3. The method of specially assessing and determining benefits.
4. The amount of funds, if any, to be contributed by the city and county to the project other than special assessments.
5. The rates to be established and imposed upon property within the drainage district to pay the expenses of operation and maintenance of the drainage improvements.
6. The reduction of the county's debt service tax levy rate against property within a city which is a party to the joint agreement.

**NEW SECTION. 331.489 RATES AND CHARGES FOR SERVICES AND CONNECTION.**

If a county and city have entered into an agreement pursuant to chapter 28E to create an urban drainage district, the county or city or both may, to the extent and in the manner provided in the agreement, establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of a drainage improvement against property within the district and establish, impose, adjust, and provide for the collection of charges for connection to a drainage improvement. Rates and charges must be established by ordinance of the governing body of the county or city imposing the rates or charges. Rates or charges for the services of and connection to the drainage improvement if not paid as provided by the ordinance of the governing body, are a lien upon the premises served or benefited by that improvement and may be certified to the county auditor and collected in the same manner as other taxes.

**NEW SECTION. 331.490 CITIES SUBJECT TO DEBT SERVICE TAX LEVY — RATES.**

If a county and city have entered into a joint agreement pursuant to chapter 28E to create a district and issue county general obligation bonds to fund the costs of a drainage improvement in that district, the county's debt service tax levy for the county general obligation bond shall not be levied against property located in any city except a city which has entered into the joint agreement.

The county and the cities entering into the joint agreement may provide in the joint agreement for a different rate of the county's debt service tax levy against property in unincorporated areas of the county and property within those cities.

**NEW SECTION. 331.491 AUTHORITY.**

The authority of a city or county under this part with respect to districts and the financing of drainage improvements is in addition to any other authority of a city or county to contract, and levy special assessments and issue bonds to fund the costs.

Approved May 16, 1985

**CHAPTER 145**  
**SENATE CONFIRMATION**  
*S.F. 584*

**AN ACT** to provide for the time required for action on gubernatorial appointments which require confirmation by the senate and are submitted to the senate during the last thirty days prior to adjournment sine die and providing an effective date by publication.

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

Section 1. Section 2.32, subsection 3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If an appointment is submitted pursuant to subsection 1, the senate shall by April 15 of that year either approve, disapprove or by resolution defer consideration of confirmation of the appointment. If an appointment is submitted pursuant to subsection 2, the senate shall either approve, disapprove or by resolution defer consideration of confirmation of the appointment within thirty days after receiving the appointment from the governor. The senate may defer consideration of an appointment until a later time during that session, but the senate shall not adjourn that session until all appointments submitted pursuant to this section before the last thirty days of the session are approved or disapproved. If a nomination is submitted during the last thirty days of the session, the senate may by resolution defer consideration of the appointment until the next regular session of the general assembly and the nomination shall be considered as though made during the legislative interim.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Des Moines Register, a newspaper published in Des Moines, Iowa, and in the Ames Daily Tribune, a newspaper published in Ames, Iowa.

Approved May 16, 1985

I hereby certify that the foregoing Act was published in the Ames Daily Tribune, Ames, Iowa on May 22, 1985 and in The Des Moines Register, Des Moines, Iowa on May 24, 1985.

MARY JANE ODELL, *Secretary of State*



**CHAPTER 146**  
**MEDICAL ASSISTANCE PROGRAM**  
*S.F. 588*

**AN ACT** amending statutory provisions relating to the medical assistance program by requiring the department of human services to deposit certain payments in the medical assistance fund and to grant certain children automatic eligibility for medical assistance.

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

Section 1. Section 218.78, subsection 1, Code 1985, is amended to read as follows:

1. All institutional receipts of the department of human services shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, for receipts deposited in the revolving farm fund under section 217A.70, for deposits into the medical assistance fund under section 249A.11, and rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions.

Sec. 2. Section 249A.3, subsection 1, Code 1985, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Is a child up to one year of age who was born on or after October 1, 1984 to a woman receiving medical assistance on the date of the child's birth, who continues to be a member of the mother's household, and whose mother continues to receive medical assistance.

Sec. 3. Section 249A.11, Code 1985, is amended to read as follows:

**249A.11 PAYMENT FOR PATIENT CARE SEGREGATED.**

~~Each A~~ A state hospital-school ~~shall or mental health institute~~, upon receipt of any payment made under this chapter for the care of any patient, ~~shall~~ segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of human services.

Sec. 4. Sections 218.75 and 222.93, Code 1985, are repealed.

Approved May 16, 1985

**CHAPTER 147**  
**ENERGY EFFICIENCY STANDARD**  
*H.F. 341*

**AN ACT** requiring the state building code commissioner to adopt a minimum energy efficiency standard for new single-family or two-family residential construction.

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

Section 1. Section 103A.8, subsection 7, Code 1985, is amended to read as follows:

7. Limit the application of thermal efficiency standards for energy conservation to new construction which will incorporate a heating or cooling system. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any new construction from thermal efficiency standards for energy conservation if the commissioner determines that the standards are unreasonable as they apply to a particular building or class of buildings including farm buildings for livestock use. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with the energy policy council regarding standards for energy conservation prior to the promulgation of the standards. However, the standards shall be consistent with the requirements of section 103A.25.

Sec. 2. NEW SECTION. 103A.25 MINIMUM ENERGY EFFICIENCY STANDARD.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall meet an established minimum energy efficiency standard. The standard shall be stated in terms of the home heating index developed by the physics department at Iowa state university of science and technology. The minimum standard shall be the average energy consumption of new single-family or two-family residential construction as determined by a survey conducted by the energy policy council of the average actual energy consumption, as expressed in terms of the home heating index. The minimum standard shall only apply to single-family or two-family residential construction commenced after the adoption of the standard.

Approved May 17, 1985

**CHAPTER 148****INHERITANCE AND FIDUCIARY INCOME TAX***H.F. 761*

**AN ACT** relating to the state inheritance and fiduciary income tax by providing for an Iowa qualified terminable interest property election, for a six-month audit period after receipt of a federal audit, for the taxation of the possession of a general power of appointment, and for notice to the department of revenue prior to the discharge of the personal representative of an estate or trust and providing effective date provisions.

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

Section 1. Section 422.27, subsection 1, Code 1985, is amended to read as follows:

1. ~~No~~ A final account of an executor, administrator, or trustee a personal representative shall not be allowed by any court until thirty days after written notice is given to the department of the proposed discharge of the personal representative and unless such the account shows, and the judge of said the court finds, that all taxes imposed by the provisions of this division upon the executor, administrator, or trustee personal representative, which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit or otherwise. The certificate of the director and the receipt for the amount of the tax therein certified shall be conclusive as to the payment of the tax to the extent of said the certificate.

Sec. 2. Section 450.3, subsection 4, Code 1985, is amended to read as follows:

4. Under power of appointment hereafter exercised To the extent of any property with respect to which the decedent has at the time of death a general power of appointment, or with respect to which the decedent has within three years of death exercised or released a general power of appointment by a disposition which is of a nature that if it were a transfer of property owned by the decedent, the property would be includable in the decedent's gross estate under this section whether the general power was created before or after the taking effect of this chapter. Any A transfer involving creation of a general power of appointment shall be treated as a transfer of a fee or equivalent interest in the property subject thereto to the donee of the power. Any transfer involving creation of any other power of appointment shall be treated, except when an election is made under subsection 7, as the transfer of a life estate or term of years in the property subject thereto to the donee of the power and as the transfer of the remainder interests therein to those who would take if the power is not exercised.

Sec. 3. Section 450.3, Code 1985, is amended by adding the following new subsection 7:

**NEW SUBSECTION. 7.** Which qualifies as a qualified terminable interest property as defined in section 2056(b)(7)(B) of the Internal Revenue Code of 1954 as defined in section 422.3, shall, if an election is made, be treated and considered as passing in fee, or its equivalent, to the surviving spouse in the estate of the donor-grantor. Property on which the election is made shall be included in the gross estate of the surviving spouse and shall be deemed to have passed in fee from the surviving spouse to the persons succeeding to the remainder interest, unless the property was sold, distributed, or otherwise disposed of prior to the death of the

surviving spouse. A sale, disposition, or disposal of the property prior to the death of the surviving spouse shall void the election, and shall subject the property disposed of, less amounts received or retained by the surviving spouse, to tax in the donor-grantor's estate in the same manner as if the tax had been deferred under sections 450.44 through 450.49.

Unless the will or trust instrument provides otherwise, the estate of the surviving spouse shall have the right to recover from the persons succeeding to the remainder interests, the additional tax imposed, if any, without interest, on the surviving spouse by reason of the election being made. The amount of tax recovered, if any, shall be a credit in the donee's estate against the tax imposed on the qualified terminable interest property.

An election under this subsection can only be made if an election in relation to the qualified terminable interest property is also made for federal estate tax purposes.

The director of revenue shall adopt and promulgate all rules necessary for the enforcement and administration of this subsection including the form and manner of making the election.

Sec. 4. Section 450.58, Code 1985, is amended to read as follows:

**450.58 FINAL SETTLEMENT TO SHOW PAYMENT.**

The final settlement of the account of a personal representative shall not be accepted or allowed until thirty days after written notice is given to the department of the proposed discharge of the personal representative and unless it shows, and the court finds, that all taxes imposed by this chapter upon any property or interest in property that is made payable by the personal representative and to be settled by the account, has been paid, and that the receipt of the department of revenue for the tax has been obtained as provided in section 450.64. Any order contravening this section is void.

Sec. 5. Section 450.94, subsection 5, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** In addition to the applicable periods of limitations for examination and determination specified in paragraphs "a" and "b", the department may make an examination and determination at any time within six months from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter between the taxpayer and the internal revenue service with respect to the federal estate, gift, or generation skipping transfer tax. In order to begin the running of the six months assessment period, the notice shall be in writing in form sufficient to inform the department of the final disposition of any matter with respect to the federal estate, gift, or generation skipping transfer tax, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice.

Sec. 6. Section 633.554, 1985 Iowa Acts, Senate File 531, section 2, is amended to read as follows:

**633.554 NOTICE TO PROPOSED WARD.**

If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice. If the proposed ward is a minor or if the proposed ward is an adult under a standby ~~order~~ petition and the court determines, pursuant to section 633.561, subsection 1, that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

Sec. 7. Section 633.561, subsection 1, 1985 Iowa Acts, Senate File 531, section 3, is amended to read as follows:

1. In a proceeding for the appointment of a guardian, if the proposed ward is an adult and is not the petitioner, the proposed ward is entitled to representation. In a proceeding for the appointment of a guardian, if the proposed ward is a minor or if the proposed ward is an adult under a standby order petition, the court shall determine whether, under the circumstances of the case, the proposed ward is entitled to representation. The determination regarding representation shall be made only after notice to the proposed ward is made as the court deems necessary.

Sec. 8. Section 633.568, 1985 Iowa Acts, Senate File 531, section 5, is amended to read as follows:

633.568 NOTICE ON TO PROPOSED WARD.

If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice. If the proposed ward is a minor and the court determines, pursuant to section ~~633.561~~ 633.575, subsection 1, that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

Sec. 9. Section 633.575, subsections 3, 4 and 5, 1985 Iowa Acts, Senate File 531, section 6 are amended to read as follows:

3. If the proposed ward is entitled to representation and is indigent or incapable of requesting counsel, the court shall appoint an attorney to represent the proposed ward. The cost of court appointed counsel for indigents shall be assessed against the county in which the proceedings are pending. For the purposes of this subsection, the court may find a person is indigent if the person's income and resources do not exceed one hundred fifty percent of the federal poverty level or the person would be unable to pay such costs without prejudicing the person's financial ability to provide economic necessities for the person or the person's dependents.

4. An attorney appointed pursuant to this section, to the extent possible, shall:

a. Ensure that the proposed ward has been properly advised of the nature of the proceeding and its purpose.

b. Ensure that the proposed ward has been properly advised of the ward's rights in a conservatorship proceeding.

c. Personally interview the proposed ward.

d. File a written report stating whether there is a return on file showing that proper service on the proposed ward has been made and also stating that specific compliance with paragraphs "a" through "c" has been made or stating the inability to comply by reason of the proposed ward's condition.

d e. Represent the proposed ward.

e f. Ensure that the conservatorship procedures conform to the statutory and due process requirements of Iowa law.

5. In the event that an order of appointment is entered, the attorney appointed pursuant to this section, to the extent possible, shall:

f a. Inform the proposed ward of the effects of any order entered by the court, including the effects of an the order entered for appointment of conservator.

g b. Advise the ward, if an order for appointment of conservator is entered, of the ward's rights to petition for modification or termination of conservatorship.

h c. Advise the ward, if a conservator is appointed, of the rights retained by the ward.

5. An attorney appointed pursuant to this section shall file an answer stating whether there is a return on file showing that proper service on the proposed ward has been made. The answer shall also state that specific compliance with subsection 4 has been made by the attorney or stating the inability to comply with subsection 4 by reason of the proposed ward's condition.

Sec. 10. This Act is effective July 1 following enactment subject to the following: Sections 1 and 4 are effective for final reports of personal representatives filed on or after the effective date; section 2 is effective for estates of decedents dying on or after January 1, 1988; section 3 is effective for estates of decedents dying on or after the effective date; and section 5 is effective for audit and assessment limitation periods expiring on or after the effective date.

Approved May 17, 1985

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## CHAPTER 149

### ECONOMIC EMERGENCY FUND TRANSFER

*H.F. 763*

**AN ACT** to transfer funds credited to the Iowa economic emergency fund to the general fund of the state, effective upon publication.

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

Section 1. Notwithstanding section 8.55, paragraph 3, Code 1985, the moneys in the Iowa economic emergency fund on the effective date of this Act are transferred to the general fund of the state on the effective date of this Act. Funds transferred to the general fund of the state shall be used to defray expenses incurred for fiscal year beginning July 1, 1984 and ending June 30, 1985.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Sac Sun*, a newspaper published in Sac City, Iowa, and in *The Denison Bulletin*, a newspaper published in Denison, Iowa.

Approved May 17, 1985

I hereby certify that the foregoing Act was published in *The Denison Bulletin*, Denison, Iowa on May 23, 1985 and in *The Sac Sun*, Sac City, Iowa on May 28, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 150****ELIGIBLE LICENSEES TO CONDUCT GAMBLING***S.F. 349*

**AN ACT** relating to the type of federal tax-exempt persons or organizations eligible to become licensees to conduct games of skill, games of chance, and raffles.

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

Section 1. Section 99B.7, subsection 1, paragraph m, Code 1985, is amended to read as follows:

m. The person or organization conducting the game can show to the satisfaction of the department that the person or organization is eligible for exemption from federal income taxation under either section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(10) or 501(c)(19) of the Internal Revenue Code of 1954, as defined in section 422.3. However, this paragraph does not apply to a political party as defined in section 43.2, to a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate committee as defined in section 56.2.

Sec. 2. Section 99B.7, subsection 1, paragraph o, Code 1985, is amended to read as follows:

o. A Except as provided in subsection 6, paragraph "a", a person shall not conduct, promote, administer, or assist in the conducting, promoting or administering of a bingo occasion, unless the person regularly participates in activities of the qualified organization other than conducting bingo occasions or participates in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization.

Sec. 3. Section 99B.7, subsection 6, paragraph a, Code 1985, is amended to read as follows:

a. A Except as provided in this paragraph, a person shall not be compensated for services rendered in connection with a game of skill, game of chance, or raffle conducted under this section. This section forbids payment of compensation to persons including, but not limited to, managers, callers, cashiers, floor workers, janitorial personnel, accountants and bookkeepers. The privilege of selling merchandise on the premises during a bingo occasion is deemed to be compensation. However, not more than four persons per one hundred players, participating in the bingo occasion may be employed. An employee under this paragraph need not be a member of the qualified organization or a regular participant in the activities of the qualified organization or in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization. The wages of an employee shall not exceed the federal minimum wage. This section does not prohibit the employment of one or more individuals to serve as security officers. A person who knowingly pays or receives compensation in violation of this section commits a fraudulent practice.

Approved May 17, 1985

**CHAPTER 151**  
**RESPIRATORY CARE PRACTITIONERS**  
*S.F. 433*

**AN ACT** relating to the certification and regulation of respiratory care practitioners and providing a penalty.

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

Section 1. **NEW SECTION. 135F.1 DEFINITIONS.**

As used in this chapter, unless otherwise defined or the context otherwise requires:

1. "Respiratory care practitioner" or "practitioner" means a person who has qualified as a respiratory therapist or respiratory therapy technician. Neither term refers to a person currently working in the field of respiratory care who does not become certified under this chapter.

2. "Respiratory care" includes "respiratory therapy" or "inhalation therapy".

3. "Respiratory therapist" means a respiratory care practitioner who has successfully completed a respiratory therapy training program, passed the registry examination for respiratory therapists administered by the national board for respiratory care and passed a respiratory therapy certification examination approved by the state department of health. Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 135F.4, may be substituted for the completion of a respiratory therapy training program.

4. "Respiratory therapy technician" means a respiratory care practitioner who has successfully completed a respiratory therapy training program, passed the certification examination for respiratory therapy technicians administered by the national board for respiratory care and passed a respiratory therapy technicians' certification examination approved by the state department of health. Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 135F.4, may be substituted for the completion of a respiratory therapy training program.

5. "Medical director" means a licensed physician or surgeon who is a member of a hospital's or health care facility's active medical staff and who should be certified or eligible for certification by the American board of internal medicine or the American board of anesthesiology.

6. "Respiratory therapy training program" means a program accredited by the American medical association's committee on allied health education and accreditation in cooperation with the joint review committee for respiratory therapy education and approved by the committee.

7. "Department" means the state department of health.

Sec. 2. **NEW SECTION. 135F.2 RESPIRATORY CARE AS A PRACTICE DEFINED.**

"Respiratory care as a practice" means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems' functions, and includes all of the following:



1. Direct and indirect pulmonary care services that are safe and of comfort, aseptic, preventative, and restorative to the patient.

2. Direct and indirect respiratory care services, including but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a licensed physician or surgeon.

3. Observation and monitoring of signs and symptoms, general behavior, reactions, general physical response to respiratory care treatment and diagnostic testing.

4. Determination of whether the signs, symptoms, behavior, reactions, or general response exhibit abnormal characteristics.

5. Implementation based on observed abnormalities, of appropriate reporting, referral, or respiratory care protocols or changes in treatment regimen.

"Respiratory care protocols" as used in this section means policies and procedures developed by an organized health care system through consultation, when appropriate, with administrators, licensed physicians and surgeons, certified registered nurses, licensed physical therapists, licensed respiratory care practitioners, and other licensed health care practitioners.

### Sec. 3. NEW SECTION. 135F.3 PERFORMANCE OF RESPIRATORY CARE.

The performance of respiratory care shall be in accordance with the prescription of a licensed physician or surgeon and includes, but is not limited to, the diagnostic and therapeutic use of the following:

1. Administration of medical gases, aerosols, and humidification, not including general anesthesia.

2. Environmental control mechanisms and paramedical therapy.

3. Pharmacologic agents relating to respiratory care procedures.

4. Mechanical or physiological ventilatory support.

5. Bronchopulmonary hygiene.

6. Cardiopulmonary resuscitation.

7. Maintenance of the natural airways.

8. Insertion without cutting tissues and maintenance of artificial airways.

9. Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows, collection of specimens of blood, and collection of specimens from the respiratory tract.

10. Analysis of blood gases and respiratory secretions.

11. Pulmonary function testing.

12. Hemodynamic and physiologic measurement and monitoring of cardiac function as it relates to cardiopulmonary pathophysiology.

13. Invasive procedures that relate to respiratory care.

A respiratory care practitioner may transcribe and implement a written or verbal order from a licensed physician or surgeon pertaining to the practice of respiratory care.

This chapter does not authorize a respiratory care practitioner to practice medicine, surgery, or other medical practices except as provided in this section.

### Sec. 4. NEW SECTION. 135F.4 LOCATION OF RESPIRATORY CARE.

The practice of respiratory care may be performed in a hospital as defined in section 135B.1, subsection 1, and other settings where respiratory care is to be provided in accordance with a prescription of a licensed physician or surgeon. Respiratory care may be provided during transportation of a patient and under circumstances where an emergency necessitates respiratory care.

Sec. 5. NEW SECTION. 135F.5 RESPIRATORY CARE STUDENTS.

Respiratory care services may be rendered by a student enrolled in a respiratory therapy training program when these services are incidental to the student's course of study.

A student enrolled in a respiratory therapy training program who is employed in an organized health care system may render services defined in sections 135F.2 and 135F.3 under the direct and immediate supervision of a respiratory care practitioner for a limited period of time as determined by rule. The student shall be identified as a "student respiratory care practitioner".

A graduate of an approved respiratory care training program employed in an organized health care system may render services as defined in sections 135F.2 and 135F.3 under the direct and immediate supervision of a respiratory care practitioner for one year. The graduate shall be identified as a "respiratory care practitioner-certification applicant".

Sec. 6. NEW SECTION. 135F.6 DEPARTMENT DUTIES.

The department shall administer and implement this chapter. The department's duties in these areas shall include, but are not limited to the following:

1. The adoption, publication and amendment of rules, in accordance with chapter 17A, necessary for the administration and enforcement of this chapter.

2. The establishment and collection of fees for the registration of respiratory care practitioners. The fees charged shall be sufficient to defray the costs of administration of this chapter and all fees collected shall be deposited with the treasurer of state who shall deposit them in the general fund of the state.

3. The designation of certification examinations for respiratory care practitioners.

Sec. 7. NEW SECTION. 135F.7 REPRESENTATION.

A person who is qualified as a respiratory care practitioner and is registered with the department may use the title "respiratory care practitioner" or the letters R.C.P. after the person's name to indicate that the person is a qualified respiratory care practitioner registered with the department. No other person is entitled to use the title or letters or any other title or letters that indicate or imply that the person is a respiratory care practitioner, nor may a person make any representation, orally or in writing, expressly or by implication, that the person is a registered respiratory care practitioner. A person working in the field of respiratory care on the effective date of this Act shall be permitted to continue to do so except that the person shall not be entitled to designate or refer to themselves as a "respiratory care practitioner" or use the letters R.C.P. after the person's name.

Sec. 8. NEW SECTION. 135F.8 PENALTY.

A person who violates a provision of this chapter is guilty of a simple misdemeanor.

Sec. 9. NEW SECTION. 135F.9 INJUNCTION.

The department may apply to a court for the issuance of an injunction or other appropriate restraining order against a person who is engaging in a violation of this chapter.

Sec. 10. NEW SECTION. 135F.10 LIABILITY.

A respiratory care practitioner who in good faith renders emergency care at the scene of an emergency is not liable for civil damages as a result of acts or omissions by the person rendering the emergency care. This section does not grant immunity from liability for civil damages when the respiratory care practitioner is grossly negligent.

Sec. 11. NEW SECTION. 135F.11 CONTINUING EDUCATION.

After July 1, 1988, a practitioner shall submit evidence satisfactory to the department that during the year of certification the practitioner has completed continuing education courses as prescribed by the department. In lieu of the continuing education, a person may successfully complete the most current version of the certification examination.

Sec. 12. NEW SECTION. 135F.12 SUSPENSION AND REVOCATION OF CERTIFICATES.

The department may suspend, revoke or impose probationary conditions upon a certificate issued pursuant to rules adopted in accordance with section 135F.6.

Sec. 13. NEW SECTION. 135F.13 ADVISORY COMMITTEE.

A respiratory care advisory committee is established to provide advice to the department regarding approval of continuing education programs and drafting of rules pursuant to section 135F.6.

The members of the advisory committee shall include two licensed physicians with recognized training and experience in respiratory care, two respiratory care practitioners, and one public member. Not more than a simple majority of the advisory committee shall be of one gender. Members shall be appointed by the governor, subject to confirmation by the senate, and shall serve three-year terms beginning and ending in accordance with section 69.19. Members shall also be compensated for their actual and necessary expenses incurred in the performance of their duties. All per diem and expense moneys paid to the members shall be paid from funds appropriated to the department.

Sec. 14. Notwithstanding the provisions of section 135F.13, of the initial appointees to the advisory committee, two members shall be appointed for one-year terms, two members shall be appointed for two-year terms and one member shall be appointed for a three-year term. The initial appointees' successors shall be appointed to terms of three years each except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the committee member replaced.

Approved May 20, 1985

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**CHAPTER 152**  
COMPARABLE WORTH IMPLEMENTATION  
*H.F. 753*

**AN ACT** relating to the implementation of comparable worth pay adjustments, amending 1984 Iowa Acts, chapter 1314, and providing for an effective date.

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

Section 1. 1984 Iowa Acts, chapter 1314, section 5, is amended by adding the following new unlettered paragraph:

NEW UNLETTERED PARAGRAPH. Comparable worth adjustments made pursuant to 1983 Iowa Acts, chapter 170, sections 1 through 4, are retroactive to the pay period beginning March 8, 1985, subject to the availability of funds. The retroactive payments shall be lump sum payments and cover employees covered under recommended adjustments made pursuant to section 8 of this chapter 1314 and shall include employees of the state board of regents.

Sec. 2. 1984 Iowa Acts, chapter 1314, section 8, is amended to read as follows:

SEC. 8. AGENCY COMPARABLE WORTH REPORTS. Agencies with positions which are exempt or partially exempt from the state merit system shall report to the governor and the legislative council by December 15, 1984, on the degree to which the salary plans covering positions substantially equivalent to those in the state merit system comply with the provisions of 1983 Iowa Acts, chapter 170. The reports shall include a plan for implementation in fiscal year 1986 of comparable worth salary adjustments, if necessary, and the amount of appropriations necessary to implement those adjustments. Plans developed pursuant to this section shall be implemented in the fiscal year 1985 subject to the availability of funds as provided in this chapter 1314. Implementation of this section shall be consistent in principle with other sections of this chapter 1314. Notwithstanding sections 602.1204, 602.1208, 602.1209, and 602.1401 of the Iowa Code, the provisions of this section of this Act shall be applicable to the judicial department.

Sec. 3. REVIEW OF FACTOR SCORES AND FACTOR DETERMINED SCORES.

1. Any state employee may request review of the factor scores or the factor determined score that employee's job title received under the study commissioned under 1983 Iowa Acts, chapter 170, section 2, or under a study required of a state agency to implement the requirements of section 79.18 of the Iowa Code. Requests for review by more than one employee within a job title shall be considered together, and a request for review by one or more employees within a job title shall be considered as a request on behalf of all employees in that job title.

2. In order to ease implementation of this review, the request for review forms will be developed and distributed by the Iowa merit employment department for all employees except Regent employees. The forms will be available within 14 days from the signing of this Act.

3. Employees shall be notified of their right to request review of their factor scores and factor determined scores with one or more paychecks following the signing of this Act, or where inclusion with the paycheck is not possible, by mail or other direct communication with the employee.

4. The Iowa merit employment department shall make "request for review" forms available to all departments and agencies and shall provide complete access to information regarding the study and the methods for determining factor scores in the system. Employees shall have at least four weeks from the date forms are distributed to the agencies and to employees on their request in which to file a request for review. Any request not filed within that time will not be considered.

5. The executive council of the state of Iowa shall appoint an appeals board of five state employees. These employees shall be representative of both exempt and merit employment groups. These employees shall be familiar with the process of classification review and will serve as hearing officers. No more than one employee shall be from any one department or agency.

6. The hearing officers will review the requests for review and any supporting documentation. The hearing officers may contact any employee involved for further information when necessary. It is assumed that in most cases the written request and any supporting documentation will be the evidence submitted to the board. All decisions of the board will be based on the evidence submitted. There will be no formal hearing, but the employees may have the opportunity to present documentation and appear before the hearing board. Appearances shall be limited to one for each classification.

7. The review process shall be completed no later than March 1, 1986. The board will then present its recommendations to the executive council at the first regular meeting of the executive council in April. The executive council shall have the authority to adjust pay grades for classifications at the recommendations of the appeals board except such actions shall not supersede any collective bargaining agreement. The action of the executive council will be final.

8. This section does not apply to state employees who were given the opportunity to have their job titles reviewed as a part of a study completed for an agency with positions which are exempt from the state merit system.

Sec. 4. LEGISLATIVE INTENT ON STEP RESTORATION. In order to complete the implementation of comparable worth, it is the intent of the general assembly that employees who were employed on March 8, 1985, and who received a step or equivalent pay reduction while receiving comparable worth adjustments shall have the pay reduction restored effective with the first pay period of fiscal year 1988, if the employee is still employed with the state in the same classification on July 1, 1987, except that an employee shall not be placed at a step or pay level above the maximum step or pay level in the employee's salary range.

Sec. 5. INTERIM STUDY OF FEMALE-DOMINATED JOBS. The legislative council shall establish an interim study committee to conduct a complete review of all female-dominated jobs to determine whether discrimination remains in compensation for work of comparable worth between jobs held predominantly by women and jobs held predominantly by men and to review other issues relating to comparable worth. The membership shall consist of ten members, five legislators from each house appointed by the legislative council. Legislative members are entitled to per diem and expenses as provided for interim study committee members in section 2.44.

The committee shall make recommendations to the governor, the legislative council, and the general assembly by January 1, 1986.

Sec. 6. This Act, being deemed of immediate importance, takes effect from and after its publication in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa, and in the Ames Daily Tribune, a newspaper published in Ames, Iowa.

Approved May 20, 1985

I hereby certify that the foregoing Act was published in the Ames Daily Tribune, Ames, Iowa on May 24, 1985 and in the Iowa City Press-Citizen, Iowa City, Iowa on June 12, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 153**  
**SAVINGS AND LOAN DEPOSIT INSURANCE**  
*S.F. 157*

**AN ACT** permitting a savings and loan association to obtain deposit insurance from an insurance plan approved by the supervisor of savings and loans or permitting a savings and loan association to voluntarily liquidate in lieu of obtaining and maintaining the insurance.

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

Section 1. Section 534.102, subsection 12, Code 1985, is amended to read as follows:

12. "Insured", when used in conjunction with the words "association", "state association", "foreign association", or "federal association", means an institution whose deposits are insured in part by the federal savings and loan insurance corporation or another insurance plan approved by the supervisor.

Sec. 2. NEW SECTION. 534.516 LIQUIDATION IN LIEU OF INSURANCE.

In lieu of acquiring and maintaining the account insurance required in section 534.506, an association may with the approval of the supervisor enter into voluntary liquidation as provided in section 534.513.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Business Record, a newspaper published in Des Moines, Iowa, and in The Toledo Chronicle, a newspaper published in Toledo, Iowa.

Approved May 20, 1985

I hereby certify that the foregoing Act was published in The Toledo Chronicle, Toledo, Iowa on May 25, 1985 and in the Business Record, Des Moines, Iowa on May 27, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 154**  
**PROBATE JURISDICTION OVER TRUSTS**  
*S.F. 377*

**AN ACT** relating to the jurisdiction of the probate court with respect to trusts administered by banks and trust companies.

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

Section 1. Section 633.10, subsection 4, Code 1985, is amended to read as follows:

4. Trusts and trustees.

The Except as otherwise provided in this subsection, the appointment of trustees; the granting of letters of trusteeship; the administration of testamentary trusts; the administration of express trusts where jurisdiction is specifically conferred on the court by the trust instrument; the administration of express trusts where the administration of the court is invoked by the trustee, beneficiary or any interested party; the administration of trusts which are established by a decree of court and result in the administration thereof by the court; and the settlement and closing of all such trusts.

A trust which is administered solely or jointly by a bank or trust company referred to in section 633.63, subsection 2, is not subject to the jurisdiction of the court unless jurisdiction is invoked by the trustee or beneficiary, or if otherwise provided by the governing instrument. Upon application by a bank or trust company administering a trust which is in existence on the effective date of this Act and is subject to the court's jurisdiction, the court may for good cause shown release the trust from further jurisdiction on the condition that jurisdiction may be thereafter invoked by the trustee or beneficiary.

Sec. 2. Section 682.60, Code 1985, is amended to read as follows:

**682.60 POWERS AND DUTIES OF TRUSTEES NOT SUBJECT TO COURT ADMINISTRATION.**

Trustees of express trusts not being administered in the probate court, shall have all the powers and shall be subject to all the duties and liabilities as provided in the probate code, except the duty of reporting to or obtaining approval of the court.

Approved May 20, 1985

**CHAPTER 155**  
**IOWA TIME-SHARE ACT**  
*H.F. 484*

**AN ACT** to regulate the sale of time-sharing estates and uses, establish time-share and project instruments, mandate the disclosure of certain information to a purchaser by a developer, provide for the release of liens, and declaring certain acts unlawful, and providing for enforcement by the attorney general.

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

Section 1. NEW SECTION. 557A.1 TIME-SHARE ACT.

This chapter shall be known as the "Iowa Time-share Act."

Sec. 2. NEW SECTION. 557A.2 DEFINITIONS.

In this chapter, unless the context requires otherwise:

1. "Association" means all of the time-share interval owners of a time-share project acting as a group, either through a nonstock nonprofit corporation or an unincorporated association, in accordance with its bylaws governing administration of the project.
2. "Commission" means the Iowa real estate commission.
3. "Common expense" means all sums lawfully assessed against an owner of a time-share interval by an association for the expenses of operating and maintaining the time-share project and for other expenses designated by the project instruments.
4. "Developer" means a person who is in the business of creating or selling time-share intervals in a time-share program. This definition does not include a person acting solely as a sales agent.
5. "Exchange agent" means a person who negotiates and arranges the exchange of time-share intervals for their owners in an exchange program involving other time-share intervals.
6. "Managing agent" means a person who undertakes the duties and responsibilities of the management of a time-share project.
7. "Project instrument" means a recordable document applicable to an entire time-share project, containing restrictions or covenants regulating the use, occupancy, or disposition of the entire project and including amendments to the document.
8. "Property report" means a written statement provided to the initial purchaser of a time-share interval containing the information required in sections 557A.11 and 557A.12.
9. "Purchaser" means a person other than a developer or lender who acquires an interest in a time-share interval.
10. "Time-share estate" means an ownership or leasehold estate in property devoted to a time-share fee or a time-share lease.
11. "Time-share instrument" means a document by whatever name denominated creating or regulating time-share programs, but excluding any law, ordinance, or government regulation.
12. "Time-share interval" means a time-share estate or a time-share use.



13. "Time-share program" means an arrangement for time-share intervals in a time-share project in which the use, occupancy or possession of real property circulates among purchasers of the time-share intervals according to a fixed or floating time schedule on a periodic basis occurring over a period of time.

14. "Time-share project" means the entire real property that is subject to a time-share program.

15. "Time-share use" means a contractual right of exclusive occupancy which does not fall within the definition of a time-share estate including, but is not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond.

16. "Unit" means the real property or the real property improvement in a time-share project which is divided into time-share intervals.

Sec. 3. NEW SECTION. 557A.3 APPLICABILITY TO TIME-SHARE PROGRAMS LOCATED OUT-OF-STATE.

1. Sections 557A.4 to 557A.10 apply only to time-share programs located in Iowa.

2. Sections 557A.1, 557A.2, and 557A.11 to 557A.20 apply to any time-share program, wherever located, which is marketed in Iowa.

Sec. 4. NEW SECTION. 557A.4 ACTION FOR PARTITION.

An action for partition of a unit shall not be maintained except as permitted by the time-share instrument.

Sec. 5. NEW SECTION. 557A.5 STATUS OF TIME-SHARE ESTATES.

1. A time-share estate is an estate in real property and has the character and incidents of an estate in fee simple at common law or an estate for years if a leasehold, except as expressly modified by this chapter.

2. A document transferring or encumbering a time-share estate shall not be rejected for recordation because of the nature or duration of the estate.

3. For purposes of title, each time-share estate constitutes a separate estate or interest in property except for real property tax purposes.

Sec. 6. NEW SECTION. 557A.6 CREATION OF TIME-SHARE ESTATES.

Project instruments and time-share instruments creating time-share estates shall contain the following:

1. The name of the county in which the property is situated.

2. The legal description, street address, or other description sufficient to identify the property.

3. Identification of units and time periods by letter, name, number, or a combination.

4. Identification of time-share estates and, when applicable, the method by which additional time-share estates may be created.

5. The formula, fraction, or percentage of the common expenses and any voting rights assigned to each time-share estate and, when applicable, to each unit that is not subject to the time-share program.

6. Any restrictions on the use, occupancy, alteration, or alienation of time-share intervals.

7. The dates and conditions under which a partition may occur.

8. The ownership interest, if any, of personal property and provisions for care and replacement of the personal property.

9. Any other matters the developer deems appropriate.

Sec. 7. NEW SECTION. 557A.7 ARRANGEMENTS FOR MANAGEMENT AND OPERATION OF A TIME-SHARE ESTATE PROGRAM.

The time-share instruments for a time-share estate program shall prescribe reasonable arrangements for management and operation of the program and for the maintenance, repair, and furnishing of units, which shall include, but not be limited to, provisions for the following:

1. Creation of an association of time-share estate owners.

2. Adoption of bylaws for organizing and operating the association.
3. Payment of costs and expenses of operating the time-share program and owning and maintaining the units.
4. Employment and termination of employment of the managing agent.
5. Preparation and dissemination to time-share estate owners of an annual budget and of operating statements and other financial information concerning the time-share program.
6. Adoption of standards and rules of conduct for the use and occupancy of units by time-share estate owners.
7. Procedures for imposing and collecting assessments from time-share estate owners to defray the expenses of management of the time-share program and maintenance of the units.
8. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use of units by time-share estate owners, their guests, and other users.
9. Methods for providing compensating use periods or monetary compensation to a time-share estate owner if a unit cannot be made available for the period to which the time-share estate owner is entitled by schedule or by confirmed reservation.
10. Procedures for imposing a monetary penalty or suspension of a time-share estate owner's rights and privileges in the time-share program for failure of the owner to comply with the time-share instruments or the rules of the association with respect to the use of the units. The time-share estate owner shall be given notice and the opportunity to refute or explain the charges in person or in writing to the governing body or the association before a decision to impose discipline is rendered.
11. Employment of attorneys, accountants, and other professional persons as necessary to assist in the management of the time-share program and the units.

Sec. 8. NEW SECTION. 557A.8 DEVELOPER CONTROL PERIOD.

1. The time-share instruments for a time-share estate program may provide for a period of time, known as the developer control period, during which the developer or a managing agent selected by the developer shall manage the time-share program and the units in the time-share program.
2. If the time-share instruments for a time-share estate program provide for the establishment of a developer control period, they shall include, but not be limited to, provisions for the following:
  - a. Termination of the developer control period by action of the association.
  - b. Termination of contracts for goods and services for the time-share program entered into during the developer control periods.
  - c. Termination of contract for managing agent entered into during developer control period.
  - d. A regular accounting by the developer to the association as to all matters that significantly affect the interests of owners in the time-share program.

Sec. 9. NEW SECTION. 557A.9 CREATION OF TIME-SHARE USES.

Project instruments and time-share instruments creating time-share uses shall contain the following:

1. Identification by name of the time-share project and street address or other description sufficient to identify the property where the time-share project is situated. The address shall be the street address if available.
2. Identification of the time periods, type of units, and the units that are in the time-share program and the length of time that the units are committed to the time-share program.

3. In case of a time-share project, identification of which units are in the time-share program and the method by which any units may be added, deleted, or substituted.

4. Any other matters that the developer deems appropriate.

**Sec. 10. NEW SECTION. 557A.10 ARRANGEMENT FOR MANAGEMENT AND OPERATION OF A TIME-SHARE USE PROGRAM.**

The time-share instruments for a time-share use program shall prescribe reasonable arrangements for management and operation of the program and for the maintenance, repair, and furnishing of units which shall include, but not be limited to, provisions for the following:

1. Standards and procedures for upkeep, repair, and interior furnishing of units and for providing of janitorial, cleaning, linen, and similar services to the units during use periods.

2. Adoption of standards and rules of conduct governing the use and occupancy of units by time-share use owners.

3. Payment of the costs and expenses of operating the time-share program.

4. Selection of a managing agent to act on behalf of the developer.

5. Preparation and dissemination to time-share use owners of an annual budget and operating statements and other financial information concerning the time-share program.

6. Procedures for establishing the rights of time-share use owners to the use of units by prearrangement or under a first-reserved, first-served priority system.

7. Organization of a management advisory board consisting of time-share use owners including an enumeration of rights and responsibilities of the board.

8. Procedures for imposing and collecting assessment or use fees from time-share use owners as necessary to defray costs of management of the time-share program and in providing materials and services to the units.

9. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use of units by time-share use owners, their guests, and other users.

10. Methods for providing compensating use periods or monetary compensation to a time-share use owner if a unit cannot be made available for the period to which the owner is entitled by schedule or by a confirmed reservation.

11. Procedures for imposing a monetary penalty or suspension of a time-share use owner's rights and privileges in the time-share program for failure of the owner to comply with the time-share instruments or the rules established by the developer with respect to the use of the units. The time-share use owner shall be given notice and the opportunity to refute or explain the charges in person or in writing to the management advisory board before a decision to impose discipline is rendered.

12. Procedures for disclosure at cost to requesting time-share users of a list of the names and mailing addresses of all current time-share owners in the time-share program.

**Sec. 11. NEW SECTION. 557A.11 DISCLOSURE REQUIREMENTS.**

1. A developer or an agent of a developer of a time-share program shall provide a current property report to a purchaser not later than ten days after the purchaser signs a purchase agreement. Prior to any sale or solicitation for sale of a time-share interval, a copy of all disclosure materials required to be given to a purchaser by this section and section 557A.12 shall be filed with the commission. The property report shall contain the following:

a. A cover sheet of the same approximate size and shape as the majority of the disclosure materials required in this section, bearing the title "Property Report" and containing the name and location of the time-share project, the name and business address of the developer and the name and business address of the developer's agent. Following this information, on

the front of the cover sheet, but set apart from it, there shall appear three statements in boldface type, or capital letters no smaller than the largest type on the page, in the following wording:

"(1) These are the legal documents covering your rights and responsibilities as a time-share interval owner. If you do not understand any provisions contained in them, you should obtain professional advice.

(2) These disclosure materials given to you as required by law may be relied upon as correct and binding. Oral statements may not be legally binding.

(3) You may at any time within \_\_\_\_\_ (developer or developer's agent shall insert a number, not less than five, designating the rescission period) business days following receipt of a current property report, cancel in writing the purchase agreement and receive a full refund of any deposits made.

(4) The filing of this document with the commission does not constitute approval of the sale or lease, or offer for sale or lease, by the state, commission, or any officer thereof, or that the state, commission, or any officer thereof has in any way passed upon the merits of the offering."

b. A general description of the units including, but not limited to, the developer's schedule of approximate commencement and completion of all buildings, units, and amenities; or if completed, a statement that they have been completed.

c. As to all units offered by the developer in the same time-share project:

(1) The types and number of units.

(2) Identification of units that are subject to time-share intervals.

(3) The estimated number of units that may become subject to time-share intervals.

d. A brief description of the time-share project.

e. If applicable, any current budget and a projected budget to be used for the time-share intervals for one year after the date of the first transfer to a purchaser. The budget shall include, but is not limited to:

(1) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement.

(2) The projected liability for common expense, if any, by category of expenditures for the time-share intervals.

(3) A statement of any services not reflected in the budget that the developer provides, or expenses that the developer pays and which, upon completion of the project or the commencement of association control, would be payable by purchasers as part of their annual share of common expenses.

f. Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

g. A description of any liens, defects, or encumbrances on or affecting the title to the time-share intervals.

h. A description in general terms of any financing offered by the developer and a statement that documents showing specific terms and conditions of financing will be furnished upon request.

i. A statement of any pending lawsuits material to the time-share intervals of which a developer has actual knowledge.

j. Any restraints on alienation of any number or portion of any time-share intervals of which a developer has actual knowledge.

k. A description of the insurance coverage, or a statement that there is no insurance coverage, provided for the benefit of time-share interval owners.

l. Any current or expected fees or charges to be paid by time-share interval owners for the use of any amenities or facilities related to the property.

m. The extent to which financial arrangements have been provided for completion of all promised improvements.

n. The extent to which a unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

2. If the time-share program has been registered under a law or rule of another state of the United States, which registration has a similar goal in the protection of prospective purchasers of time-share programs, the developer may substitute for the property report required by subsection 1 an abbreviated property report which consists of a first page to which have been attached the disclosure materials required by the other registering jurisdiction.

a. In addition to the information required to be included on the cover page under subsection 1, paragraph "a", the cover page of the abbreviated report shall contain the following conspicuously noted language:

"PROPERTY REPORT OF (Name of time-share program)  
IMPORTANT NOTE TO PROSPECTIVE PURCHASERS:

The attached information has been provided by (name of time-share program) under the laws of Iowa and (other registering jurisdiction). Read it carefully before you spend any money."

b. If the commission finds that some states do not have disclosure requirements adequate to protect prospective purchasers in this state, the commission may adopt rules identifying those states and requiring the amending of the language of the first page of the abbreviated property report or the abbreviated property report from those states to insure adequate disclosure.

3. The developer shall pay a filing fee in an amount set by rule by the commission when filing the property report required in subsection 1 or 2.

4. At the same time as the developer files the property report or abbreviated property report, the developer shall provide the commission with a list of the names, addresses and phone numbers of all persons authorized to sell time-share intervals on the developer's behalf in Iowa. This list shall be periodically updated as the commission may by rule require.

#### Sec. 12. NEW SECTION. 557A.12 ADDITIONAL DISCLOSURE REQUIREMENTS RELATING TO EXCHANGE PROGRAMS.

1. When the owners of time-share intervals are to be permitted or required to become members of or participate in any program for the exchange of occupancy rights among themselves or with the owners of time-share intervals of other time-share projects or both, the developer or an agent of a developer of a time-share program, in addition to the property report required by section 557A.11 and within the same time limitation, shall provide the following disclosure materials to a purchaser:

a. The name, address and telephone number of the exchange agent and a statement as to whether that person is an affiliate of the developer.

b. Whether membership or participation, or both, in the exchange program are voluntary or mandatory.

c. The expenses, or ranges of expenses, charged to the time-share interval owners for membership in the exchange program including the expenses, if any, of exchanging as of a date not more than one year before the property report is delivered to the purchaser, and the name of the person to whom those expenses are payable.

d. Whether and how any of the expenses specified in paragraph "c" may be altered and, if any of them are to be fixed on a case-by-case basis, the manner in which they are to be fixed in each case.

2. Subsection 1 shall not apply if information on all exchange programs has been included pursuant to law or rule of the other registering jurisdiction in an abbreviated property report prepared pursuant to section 557A.11, subsection 2.

Sec. 13. NEW SECTION. 557A.13 EXEMPTIONS FROM DISCLOSURE REQUIREMENTS.

A person shall not be required to provide disclosure documents, as required in sections 557A.11 and 557A.12, in the following cases:

1. A transfer of a time-share interval by a time-share interval owner other than a developer or a developer's agent.
2. A disposition of units in a time-share project pursuant to a court order.
3. A disposition of units in a time-share project by a government or governmental agency.
4. A disposition of units in a time-share project by a foreclosure or deed in lieu of foreclosure.
5. A disposition to a person acquiring the time-share interval for other than personal use.
6. A disposition of a time-share interval in a time-share project situated wholly outside this state if all solicitations, negotiations, and contracts took place wholly outside this state and the contract was executed wholly outside this state.
7. A gratuitous transfer of a time-share interval.

Sec. 14. NEW SECTION. 557A.14 PURCHASER'S AND DEVELOPER'S RIGHTS RELATING TO PROPERTY REPORT.

1. A purchaser may at any time within five business days following the receipt of all information required in sections 557A.11 and 557A.12 rescind in writing a contract of sale without stating any reason and without any liability on the purchaser's part. All payments made by the purchaser before rescission shall be refunded within thirty days after receipt of the notice of rescission as provided in subsection 3.

2. The developer may cancel the contract of purchase without penalty to either person at any time within five business days after the receipt by the purchaser of the disclosure materials required in sections 557A.11 and 557A.12. The developer shall return all payments made and the purchaser shall return all materials received in good condition, reasonable wear and tear excepted. If the materials are not returned, the developer may deduct their cost and return the balance to the purchaser.

3. If either person elects to cancel a contract pursuant to subsection 1 or 2, the person may do so by hand delivery or personal service, or electronic or prepaid United States mail to the other person or to the person's agent for service of process.

4. Material furnished under sections 557A.11 and 557A.12 may not be changed or amended following delivery to a purchaser without the prior approval of the purchaser, if the change or amendment would materially affect the rights of the purchaser. A copy of amendments shall be delivered promptly to the purchaser.

5. A developer who makes a false or misleading statement of fact that reasonably could affect the purchaser's decision to enter into the contract of sale, or omits to include a fact, in the information required to be disclosed under sections 557A.11 and 557A.12 shall be liable to the purchaser for damages, and, at the election of the purchaser, the misrepresentation shall be sufficient to void the contract for sale.

6. Rights of purchasers under this section shall not be waived in the contract of sale and an attempt to waive is void.

Sec. 15. NEW SECTION. 557A.15 RELEASE FROM LIENS.

1. Unless the purchaser expressly agrees, prior to the transfer other than by deed in lieu of foreclosure of a time-share interval, to take subject to or assume a lien, the developer shall record or furnish to the purchaser releases of all liens affecting that time-share interval, or shall provide a surety bond or insurance against the lien.

2. If a lien, other than an underlying mortgage or deed of trust, becomes effective against more than one time-share interval in a time-share project, a time-share interval owner is entitled to a release of the owner's time-share interval from the lien upon payment of the amount of the lien attributable to the owner's time-share interval. The amount of the payment shall be proportionate to the ratio that the time-share interval owner's liability bears to the liabilities of all time-share interval owners whose interests are subject to the lien. Upon receipt of payment, the lienholder shall promptly deliver to the time-share interval owner a release of the lien covering the time-share interval. After payment, the managing entity shall not assess or have a lien against that time-share interval for any portion of the expenses incurred in connection with that lien. The time-share interval owner and the lienholder may enter into an alternative arrangement.

Sec. 16. NEW SECTION. 557A.16 ENFORCEMENT AND CAUSE OF ACTION.

1. Violations of this chapter, unfair methods of competition, and deceptive or unfair acts or practices, in the offer or sale of a time-share are unlawful. Enforcement shall be as provided in section 714.16. The terms "unfair methods of competition" and "deceptive or unfair acts or practices" include, but are not limited to, the following acts:

- a. Misrepresenting or failing to disclose any material fact concerning a time-share.
- b. Failing to honor and comply with all provisions of a time-share instrument entered into with a purchaser.
- c. Including any time-share instrument provisions purporting to waive any right or benefit provided for purchasers under this chapter.
- d. Receiving from a prospective purchaser any money or other valuable consideration before the purchaser signs a time-share instrument.
- e. Misrepresenting the amount of time or period of time the time-share unit will be available to a purchaser.
- f. Misrepresenting the location of the offered time-share unit.
- g. Misrepresenting the size, nature, extent, qualities, or characteristics of the offered time-share unit.
- h. Misrepresenting the nature or extent of any services incident to the time-share unit.
- i. Misrepresenting the conditions under which a purchaser may exchange occupancy rights to a time-share unit in one location for occupancy rights to a time-share unit in another location.

2. If a developer or any other person subject to this chapter violates any provision of this chapter or any provision of the project or time-share instruments, any person or class of persons damaged or otherwise adversely affected by the violation shall have a claim for appropriate relief, which shall be brought in the county in which the time-share project is located or was offered or sold, in which the time-share offeror or time-share salesperson resides or is doing business upon tender of the time-share interest sold, or in which the contract was made. The court may order the developer or other person subject to this chapter to refund the purchaser the full amount paid by the purchaser, with prejudgment interest, less a portion of the amount paid representing the portion of any benefit the purchaser actually received or had the right to receive during the time preceding the tender. In all cases, the court may provide equitable relief it considers necessary or proper. The court may also award the person or class of persons reasonable attorney's fees. This action does not limit any other remedy of the purchaser.

Sec. 17. NEW SECTION. 557A.17 BLANKET MORTGAGE OR OTHER LIENS AFFECTING A TIME-SHARE INTERVAL AT TIME OF FIRST CONVEYANCE.

The developer whose project is subject to an underlying blanket lien or encumbrance shall protect nondefaulting purchasers from foreclosure by the lienholder by obtaining from the lienholder written assurances that the lienholder will not foreclose on nondefaulting purchasers. These written assurances may be in the form of a nondisturbance clause, subordination agreement, or partial release of the lien as the time-share intervals are sold, or the developer may obtain the agreement of the lienholder to take the project, in the event of default by the developer, subject to the rights of the nondefaulting purchasers by entering into a financing plan or escrow agreement sufficient to protect the lienholder's interest.

Sec. 18. NEW SECTION. 557A.18 FINANCING OF TIME-SHARE PROGRAMS.

In the financing of a time-share program, the developer shall retain financial records of the schedule of payments required to be made and the payments made to any person or entity which is the holder of an underlying blanket mortgage, deed of trust, contract of sale, or other lien or encumbrance. Any transfer of the developer's interest in the time-share program to a person other than purchaser of a unit shall be subject to the obligations of the developer.

Sec. 19. NEW SECTION. 557A.19 LIENHOLDER'S RIGHTS.

Any purchaser who fails to object and specify the invalidity or defect contained in the time-share instrument within sixty days after receipt of written notice that the developer has assigned the receivables to the lienholder may not claim that the time-share instrument is invalid, void, or voidable in any subsequent action for enforcement of the collection of the receivables by the lienholder. The notice shall be by certified mail or personal delivery and state that the developer has assigned the receivables to the lienholder and that the purchaser has sixty days within which to object and specify the invalidity or defect contained within such instrument. Any objection shall be written and delivered by certified mail or personal delivery to the lienholder.

Sec. 20. NEW SECTION. 557A.20 TIME-SHARE SALESPERSONS.

A person engaged in the business or occupation of selling time-share estates for a fee or a commission shall obtain a real estate license pursuant to chapter 117.

Sec. 21. Section 117.7, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The sale of time-share uses as defined in section 557A.2.

Sec. 22. Section 117A.1, subsection 1, Code 1985, is amended to read as follows:

1. "Subdivided land" means ~~any~~ improved or unimproved land divided or proposed to be divided for the purpose of sale or lease into five or more lots or parcels, or additions thereto, or parts thereof; however, subdivided land does not apply to a subdivision subject to section 306.21 or chapter 409 nor to the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, or commercial building unless an undivided interest in the land is granted as a condition precedent to occupying space in ~~said~~ the structure. Subdivided land ~~shall~~ does not include ~~any~~ subdivisions of land located within the state of Iowa or time-share intervals as defined in section 557A.2.

Sec. 23. Section 502.102, subsection 12, Code 1985, is amended to read as follows:

12. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in ~~any~~ a profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; certificate of interest or



participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include ~~any a time-share interval as defined in section 557A.2~~ or an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

Approved May 20, 1985

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## CHAPTER 156

### LEASE AND LEASE-PURCHASE BY LOCAL GOVERNMENTS

*H.F. 523*

**AN ACT** related to the right of cities and counties to lease or lease-purchase real and personal property.

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

Section 1. Section 331.301, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 10.** A county may enter into leases or lease-purchase contracts for real and personal property in accordance with the terms and procedures set forth in section 364.4, subsection 4, provided that the references to cities shall be to counties, the reference to section 384.26 shall be to section 331.442, the reference to section 384.25 shall be to section 331.443, the reference to section 384.95, subsection 1 shall be to section 331.341, subsection 1, the reference to division VI of chapter 384 shall be to part 3 of chapter 331, and reference to the council shall be to the board.

Sec. 2. Section 331.430, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

c. Payments required to be made from the debt service fund under a lease or lease-purchase agreement.

Sec. 3. Section 364.4, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 4.** Enter into leases or lease-purchase contracts for real and personal property in accordance with the following terms and procedures:

a. A city shall lease or lease-purchase real or personal property only for a term which does not exceed the economic life of the property, as determined by the council.

b. A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including the obligation of the lessee to pay any of the costs of operation or ownership of the leased property, and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply.

d. The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase agreement made payable from the debt service fund, or to authorize any lease or lease-purchase contract which would result in the total of annual lease and lease-purchase payments of the city due from the general fund of the city in any future year for lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount. In all other cases, the authorization procedures of section 384.25 shall apply. Chapter 75 shall not be applicable. A city utility is a separate entity under the provisions of this section whether it is governed by the council or another governing body.

e. A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest, is an obligation of a political subdivision of this state for the purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees and any other fiduciaries responsible for the investment of funds.

f. Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

g. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 384.95, subsection 1, except for purposes of section 384.102. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligation to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is a public improvement and is subject to division VI of chapter 384.

Sec. 4. Section 384.4, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** Payments required to be made from the debt service fund under a lease or lease-purchase agreement.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in The Clinton Herald, a newspaper published in Clinton, Iowa, and in The Dubuque Leader, a newspaper published in Dubuque, Iowa.

Approved May 20, 1985

I hereby certify that the foregoing Act was published in The Clinton Herald, Clinton, Iowa on May 24, 1985 and in The Des Moines Register, Des Moines, Iowa on May 30, 1985 and The Dubuque Leader, Dubuque, Iowa on May 31, 1985.

MARY JANE ODELL, *Secretary of State*

Pursuant to the authority vested in the undersigned Secretary of State of the State of Iowa, because of inherent and imperative need, I hereby designate that the foregoing Act be published in The Des Moines Register, a newspaper published in Des Moines, Iowa in addition to the newspapers designated in the Act.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 157**  
**CERTAIN APPELLATE PROCEDURES**

*H.F. 550*

**AN ACT** making appellate procedure in discretionary reviews, criminal appeals, postconviction relief appeals and civil appeals more uniform and consistent.

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

Section 1. Section 631.16, subsections 4 and 5, Code 1985, are amended by striking the subsections.

Sec. 2. Section 631.16, subsections 6, 7, 8, and 9, Code 1985, are amended to read as follows:

6. The record and case shall be presented to the ~~supreme appellate~~ court as provided by the rules of appellate procedure; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the ~~supreme appellate~~ court shall apply in such cases. ~~The case may be transferred to the court of appeals by the supreme court.~~

7. ~~An application shall not be dismissed for an informality or defect in taking it if corrected as directed by the appellate court. The appellate court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment, and may order a new trial. It also may dismiss the application if both of the following are true:~~

- a. ~~The court determines that there has been no substantial miscarriage of justice.~~
- b. ~~The arguments do not present definite grounds for a hearing.~~

8. ~~The decision of the appellate court with any opinion filed or judgment rendered must be recorded by the supreme court clerk. After the expiration of the period allowed for a rehearing, or as ordered by the court or provided by its rules, a certified copy of the decision and opinion shall be transmitted to the clerk of the trial court, and filed and entered of record in the district court. Procedendo shall be issued as provided in the rules of appellate procedure.~~

9. ~~The jurisdiction of the appellate court shall cease after the certified copy of the decision and opinion is transmitted to the clerk of the trial court when procedendo is issued. All proceedings for executing the judgment shall be had in the trial court or by its clerk.~~

Sec. 3. Section 663A.9, Code 1985, is amended to read as follows:

**663A.9 APPEAL.**

~~A An appeal from a final judgment entered under this chapter may be reviewed by the supreme court of this state on appeal, brought taken, perfected and prosecuted either by the applicant or by the state within sixty days from the entry of the judgment in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments in criminal cases.~~

Sec. 4. Section 814.15, Code 1985, is amended to read as follows:

**814.15 APPEALS AND APPLICATIONS — WHEN DOCKETED — WHEN DETERMINED.**

~~When a proper appeal is perfected in a criminal case and the clerk's transcript of the record as required by section 814.7 is filed in the appellate court, the cause shall be docketed.~~

Appeals and applications for discretionary review in criminal cases shall be docketed in the supreme court as provided in the rules of appellate procedure. Such causes shall take precedence over other business, and the appellate court shall hear consider and determine appeals and applications for discretionary review in criminal actions at the earliest time it may be done considering the rights of parties and proper administration of justice. A similar rule shall apply to applications for discretionary review.

Sec. 5. Section 814.20, Code 1985, is amended to read as follows:

**814.20 DECISIONS ON APPEALS OR APPLICATIONS BY DEFENDANT.**

An appeal or application taken by the defendant shall not be dismissed for an informality or defect in taking it if corrected as directed by the appellate court. The appellate court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the district court judgment. It may also dismiss the appeal or application if it determines that there has been no substantial miscarriage of justice, and no violation of the rights of the accused, and that the arguments do not present definite grounds for a hearing. The appellate court may also order a new trial, or reduce the punishment, but cannot shall not increase it.

Sec. 6. Section 814.21, Code 1985, is amended to read as follows:

**814.21 COSTS TO THE SUCCESSFUL DEFENDANT.**

If on appeal or application by the defendant, the judgment of the trial court is reversed or modified in the defendant's favor, the defendant shall recover the cost of printing abstract and briefs (to a maximum of one dollar per page) to be paid by the county wherein the trial occurred. Costs shall be taxed as provided by the rules of appellate procedure.

Sec. 7. Section 814.24, Code 1985, is amended to read as follows:

**814.24 DECISION RECORDED AND TRANSMITTED PROCEDENDO.**

The decision of the appellate court with any opinion filed or judgment rendered must be recorded by its clerk. After the expiration of the period allowed for a rehearing, or as ordered by the court or provided by its rules, a certified copy of the decision and opinion shall be transmitted to the clerk of the district court, filed and entered of record by the clerk. Procedendo shall be issued as provided in the rules of appellate procedure.

Sec. 8. Section 814.25, Code 1985, is amended to read as follows:

**814.25 CESSATION OF JURISDICTION OF APPELLATE COURT CEASES AFTER JUDGMENT.**

The jurisdiction of the appellate court shall cease after the certified copy of the decision and opinion is transmitted to the clerk of the district court when procedendo is issued. All proceedings for executing the judgment shall be had in the district court or by its clerk.

Sec. 9. Sections 814.4, 814.7, 814.16 and 814.18, Code 1985, are repealed.

Approved May 20, 1985

**CHAPTER 158**  
**CHATTEL LOANS**  
*H.F. 556*

AN ACT relating to chattel loans by providing a short title to chapter 536, increasing the maximum amount of a regulated loan from two thousand to twenty-five thousand dollars, permitting a licensee to sell property insurance to borrowers on property owned by the borrowers, modifying the penalty if a licensee charges excessive interest or other charges, and modifying a requirement that an applicant for a loan shall report other installment loans that the applicant may have.

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

Section 1. Section 533A.2, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. Banks, savings and loan associations, insurance companies and similar fiduciaries, ~~chattel regulated loan companies licensed under chapter 536 and industrial loan companies licensed under chapter 536A, as duly licensed in Iowa by law,~~ authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.

Sec. 2. Section 536.1, Code 1985, is amended to read as follows:

536.1 TITLE - LICENSE AND RIGHTS THEREUNDER - FACE-TO-FACE SOLICITATION REQUIRED.

1. This chapter may be referred to as the "Iowa Regulated Loan Act".

2. With respect to a loan other than a consumer loan, ~~no a person, copartnership, association, or corporation shall not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of two twenty-five thousand dollars or less and charge, contract for, or receive on any such the loan a greater rate of interest or consideration therefor for the loan than the lender would be permitted by law to charge if the lender were not a licensee hereunder under this chapter except as authorized by this chapter and without first obtaining a license from the superintendent of banking, hereinafter called the superintendent.~~

3. With respect to a consumer loan, a person required by section 537.2301 to have a license shall not engage in the business of making loans of money, credit, goods or things in action in the amount or value of ~~two twenty-five thousand dollars or less and charge, contract for, or receive on any such the loan a greater rate of interest or consideration therefor for the loan~~ than the lender would be permitted by law to charge if the lender were not a licensee ~~hereunder under this chapter,~~ except as authorized by this chapter and without first obtaining a license from the superintendent.

4. A person who enters into less than ten supervised loans per year in this state and who neither has an office physically located in this state nor engages in face-to-face solicitation in this state may contract for and receive the rate of interest permitted in this chapter for licensees ~~hereunder under this chapter.~~ A "consumer loan" ~~shall be means the same as~~ defined in section 537.1301.

Sec. 3. Section 536.10, unnumbered paragraph 3, Code 1985, is amended to read as follows:

Every ~~A~~ licensee subject to examination, supervision and regulation by the superintendent, shall pay to the superintendent an examination fee, based on the actual cost of the operation of the ~~small regulated~~ loan division of the department of banking, and the proportionate share of administrative expenses in the operation of the department of banking attributable to the ~~small regulated~~ loan division as determined by the superintendent of banking. ~~Such~~ The fee shall apply equally to all licenses and shall not be changed more frequently than annually and when changed, shall be effective on January 1 of the year following the year in which the change is approved.

Sec. 4. Section 536.13, Code 1985, is amended to read as follows:

536.13 BANKING BOARD – REPORT – ADDITIONAL RESTRICTIONS.

1. ~~It shall be the duty of the~~ The state banking board, hereinafter called the board, and it shall have power, jurisdiction, and authority, from time to time to may investigate the conditions and find the facts with reference to the business of making ~~small regulated~~ loans, as described in section 536.1, hereinafter referred to as ~~small~~ loans, and after making ~~such the~~ investigation, report in writing ~~their~~ its findings to the next regular session of the general assembly, and upon the basis of ~~such~~ the facts:

a. ~~To classify small~~ Classify regulated loans by a regulation according to ~~such~~ a system of differentiation as which will reasonably distinguish ~~such~~ the classes of loans for the purposes of this chapter, and.

b. ~~To determine~~ Determine and fix by a regulation ~~such~~ rule the maximum rate of interest or charges upon each ~~such~~ class of ~~small regulated~~ loans as which will induce efficiently managed commercial capital to enter ~~such the~~ business in sufficient amounts to make available adequate credit facilities to individuals ~~without the security or financial responsibility usually required by banks~~. ~~Such~~ The maximum rate of interest or charge shall be stated by the board as an annual percentage rate calculated according to the actuarial method and applied to the unpaid balances of the amount financed.

2. ~~The~~ Except as provided in subsection 7, the board may from time to time, commencing March 1, 1935, redetermine and refix by a regulation rule, in accordance with subsection 1 above, any maximum rate of interest or charges previously fixed by it, but ~~such the~~ changed maximum rates shall not affect pre-existing loan contracts lawfully entered into between any a licensee and any a borrower; ~~all regulations~~. All rules which the board may make respecting rates of interest or charges shall ~~fix and contain~~ state the effective date thereof of the rules, which shall not be earlier than thirty days after notice to each licensee by mailing ~~such the~~ notice to each licensed place of business.

3. Before fixing any classification of ~~small regulated~~ loans or any maximum rate of interest or charges, or changing any ~~such~~ a classification or rate under authority of this section, the board shall give reasonable notice of its intention to consider doing so to all licensees and a reasonable opportunity to be heard ~~thereon~~ and to introduce evidence with respect ~~thereto~~ to the change or classification.

4. Beginning July 4, 1965, and until such time as a different rate is fixed by the board, the maximum rate of interest or charges upon ~~such the~~ class or classes of ~~small regulated~~ loans shall be is three percent per month on any part of the unpaid principal balance of the loan not exceeding one hundred fifty dollars and two percent per month on any part of the loan in excess of one hundred fifty dollars, but not exceeding three hundred dollars, and one and one-half percent per month on any part of the unpaid principal balance of the loan in excess of three hundred dollars, but not exceeding seven hundred dollars, and one percent per month on any part of the unpaid principal balance of the loan in excess of seven hundred dollars.

5. Every A licensee hereunder under this chapter may lend any sum of money not exceeding two twenty-five thousand dollars in amount and may charge, contract for, and receive thereon on the loan interest or charges at a rate not exceeding the maximum rate of interest or charges determined and fixed by the board under authority of this section or by the provisions of the preceding subsection 4 or pursuant to subsection 7 for those amounts in excess of ten thousand dollars.

6. The following provision shall apply to all loans including consumer loans made by a licensee hereunder: If any interest or charge on a loan regulated by this chapter in excess of those permitted by this chapter are is charged, contracted for, or received, the contract of loan shall be is void as to interest and charges and the licensee shall have has no right to collect or receive any principal, interest or charges whatsoever. In addition, the licensee shall forfeit the right to collect the lesser of two thousand dollars of principal of the loan or the total amount of the principal of the loan.

7. The board may establish the maximum rate of interest or charges as permitted under this chapter for those loans whose unpaid principal balance is ten thousand dollars or less. For those loans whose unpaid principal balance is over ten thousand dollars, the maximum rate of interest or charges which a licensee may charge shall be the greater of the rate permitted by chapter 535 or the rate authorized for supervised financial organizations by chapter 537.

The provisions of the Iowa consumer credit code shall apply, chapter 537, applies to a consumer loan in which the licensee participates or engages, and any a violation of the Iowa consumer credit code shall be is a violation of this chapter.

Article 2, parts 3, 5 and 6 of chapter 537, and article 3 of chapter 537, sections 537.3203, 537.3206, 537.3209, 537.3304, 537.3305 and 537.3306 shall apply to any credit transaction, as defined in section 537.1301 in which a licensee participates or engages, and any violation of those parts or sections shall be is a violation of this chapter. For the purpose of applying the provisions of the Iowa consumer credit code to those credit transactions, "consumer loan" shall include includes a loan for a business purpose.

A provision of the Iowa consumer credit code applicable to loans regulated by this chapter shall supersede supersedes a conflicting provision of this chapter.

Sec. 5. Section 536.15, Code 1985, is amended to read as follows:

#### 536.15 USURY — LIMITATION ON PRINCIPAL LOAN.

No A licensee shall not directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if the lender were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than two twenty-five thousand dollars. The foregoing prohibition shall This section also apply applies to any a licensee who permits any a person, as borrower or as endorser, guarantor, or surety for any a borrower, or otherwise, to owe directly or contingently or both to the licensee at any time the sum of more than two twenty-five thousand dollars for principal.

Sec. 6. Section 536.25, Code 1985, is amended to read as follows:

#### 536.25 STATEMENT OF OTHER LOANS BY BORROWER.

Every A licensee when making a loan hereunder under this chapter shall require a statement in writing from each applicant setting forth a description of all installment indebtedness of such the applicant by giving the amount of each such loan and the name of the lender. The applicant may orally disclose the information and the licensee shall write down the information, and the applicant shall subsequently sign the statement.

Sec. 7. Section 536.26, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~No~~ A licensee shall not, directly or indirectly, sell or offer for sale any life, or accident and health insurance in connection with ~~any~~ a loan made under this chapter except as and to the extent authorized by this section. Life, accident and health insurance, or any of them, may be written by a licensed insurance agent upon or in connection with any loan for a term not extending beyond the final maturity date of the loan contract but only upon one obligor on any one loan contract.

Sec. 8. Section 536.28, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 3. "Board" means the state banking board.

NEW SUBSECTION. 4. "Consumer loan" means a loan as defined in section 537.1301.

NEW SUBSECTION. 5. "Superintendent" means the state superintendent of banking.

Sec. 9. NEW SECTION. 536.30 INSURANCE RELATED TO PROPERTY OF BORROWER.

A licensee may sell the borrower insurance against loss of or damage to property owned by the borrower or loss from liability arising out of the ownership or use of property owned by the borrower. When the transaction is a consumer credit transaction as defined in section 537.1301 the sale of property insurance is subject to the requirements of sections 537.2501 and 537.2510 and the rules adopted under those sections by the administrator of the Iowa consumer credit code.

Sec. 10. Section 536A.5, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

536A.5 EXEMPTIONS.

This chapter does not apply to any of the following:

1. Businesses organized or operating as permitted under the authority of a law of this state or the United States relating to banks, trust companies, building and loan associations, savings and loan associations, insurance companies, regulated loan companies organized under chapter 536, or credit unions.
2. Persons that make loans only on notes secured by first mortgages on real estate.
3. Licensed real estate brokers or salespersons.
4. A person engaged exclusively in the business of purchasing commodity financing or commercial paper.
5. A pawnbroker.
6. A person engaged in the mercantile business.
7. Loans made to a domestic or foreign corporation.

Approved May 20, 1985



**CHAPTER 159**  
**FEES COLLECTED BY COUNTY OFFICERS**  
*H.F. 589*

AN ACT relating to fees collected by county officers.

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

Section 1. Section 331.507, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. For indexing a change of name for each parcel of real estate owned in the county, three five dollars.

Sec. 2. Section 331.605, subsections 5, 6, and 7, Code 1985, are amended by striking the subsections.

Sec. 3. Section 523A.2, subsection 1, paragraphs d and e, Code 1985, are amended to read as follows:

d. The seller under an agreement referred to in section 523A.1 shall give file notice to with the county recorder for the county in which the trust agreement is filed of each receipt of funds held in trust under section 523A.1. This notice shall be given filed on forms furnished by the seller, and shall be given filed not later than March 1 of each year. Each notice shall contain the required information for all receipts of the seller during the previous calendar year.

e. A financial institution referred to in paragraph "a" of this subsection shall give file notice to with the county recorder for the county in which the trust agreement is filed of all funds deposited under the trust agreement. This notice shall be on forms furnished by the seller and shall be given filed not later than March 1 of each year. Each notice shall contain the required information for all deposits made during the previous calendar year. The seller shall furnish the financial institution with the appropriate forms.

Sec. 4. Section 547.3, Code 1985, is amended to read as follows:

**547.3 FEE FOR RECORDING.**

The county recorder shall be entitled to charge and receive a fee of three dollars in the amount specified in section 331.604 for each verified statement filed under the provisions of this chapter.

Sec. 5. Section 554.9405, subsection 2, unnumbered paragraph 2, Code 1985, is amended by striking the unnumbered paragraph and inserting the following:

For financing statements covering fixture filings, changes in the filings, and termination of the filings, an additional fee shall be charged for recording in an amount specified in section 331.604.

Sec. 6. Section 557.24, Code 1985, is amended to read as follows:

**557.24 FEE.**

Any A person having the name of the person's farm recorded as provided in section 557.22 shall first pay to the county recorder a fee of three dollars in the amount specified in section 331.604, which fee shall be paid to the county treasurer as other fees are paid to the county treasurer by such the recorder.

Sec. 7. Section 557.26, Code 1985, is amended to read as follows:  
557.26 CANCELLATION – FEE.

When any If the owner of a registered farm desires to cancel the registered name thereof of the farm, the owner shall state on the margin of the record of the register of such name the following: "This name is canceled and I hereby release all rights thereunder", which shall be signed by the person canceling such name and attested by the county recorder acknowledge cancellation of the name by execution of an instrument in writing referring to the farm name, and shall record the instrument. For such the latter service the county recorder shall charge a fee of fifty cents in the amount specified in section 331.604, which shall be paid to the county treasurer as other fees are paid to the county treasurer by the recorder.

Sec. 8. Section 558.57, unnumbered paragraph 2, Code 1985, is amended to read as follows:

Entered upon transfer books and for taxation this ..... day of ....., 19.... My fee one dollar \$..... paid by recorder.

.....  
Auditor.

Sec. 9. Section 558.66, Code 1985, is amended to read as follows:  
558.66 TITLE DECREE – ENTRY ON TRANSFER BOOKS.

Upon receipt of a certificate from the clerk of the district court or an appellate court that the title to real estate has been finally established in any named person by judgment or decree or by will, the auditor shall enter the same information in the certificate upon the transfer books, upon payment of a fee of one dollar in the amount specified in section 331.507, subsection 2, paragraph "a", which fee shall be taxed as court costs in the cause, collected by the clerk, and paid to the auditor at the time of filing such certificate by the recorder as provided in section 558.58, subsection 1.

Sec. 10. Section 598.21, subsection 8, unnumbered paragraph 2, Code 1985, is amended to read as follows:

If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder and the county auditor of the county in which the real estate is located. Any fees assessed shall be included as part of the court costs, however, the certificates shall be recorded whether the costs are paid or not. The county recorder shall deliver the certificates and appropriate fees to the county auditor as provided in section 558.58, subsection 1.

Sec. 11. Section 655.5, Code 1985, is amended to read as follows:

655.5 INSTRUMENT OF SATISFACTION.

When the judgment is fully paid and satisfied upon the judgment docket of such the court, the clerk shall file with the recorder an instrument in writing, referring to the mortgage and duly acknowledging a satisfaction of such the mortgage, and for such service the sum of twenty-five cents will be allowed to be taxed as part of the costs of the case. The instrument shall be filed without fee.

Sec. 12. Section 674.14, Code 1985, is amended to read as follows:

674.14 INDEXING IN REAL PROPERTY RECORD.

The county recorder and county auditor of each county wherein in which the petitioner owns real property may shall charge one dollar fees in the amounts specified in sections 331.604 and 331.507, subsection 2, paragraph "b", for indexing a change of name for each parcel of real estate.

**CHAPTER 160****QUALIFICATIONS OF WEED COMMISSIONERS AND COMMERCIAL APPLICATORS***H.F. 498*

**AN ACT** relating to the qualifications of a weed commissioner, deputy weed commissioner or commercial applicator.

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

Section 1. Section 317.3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The board of supervisors of each county shall annually appoint a county weed commissioner who may be a person otherwise employed by the county and who is familiar with the various types of weeds passes minimum standards established by the department of agriculture for noxious weed identification and the recognized methods for their noxious weed control and elimination. The county weed commissioner's appointment shall be effective as of March 1 and shall continue for a term of one year at the discretion of the board of supervisors unless the commissioner is removed from office as provided for by law. The county weed commissioner may, with the approval of the board of supervisors, require that commercial applicators and their appropriate employees pass the same standards for noxious weed identification as established by the department of agriculture. The name and address of the person appointed as county weed commissioner shall be certified to the county auditor and to the secretary of agriculture within ten days of the appointment. The board of supervisors shall fix the compensation of the county weed commissioner and deputies. In addition to compensation, the commissioner and deputies shall be paid their necessary travel expenses. At the discretion of the board of supervisors, the weed commissioner shall attend a seminar or school conducted or approved by the state department of agriculture relating to the identification, control and elimination of noxious weeds.

Approved May 22, 1985

**CHAPTER 161****ADMINISTRATION OF SPECIAL LAND USE DISTRICTS***H.F. 569*

**AN ACT** relating to the administration of special land use districts.

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

Section 1. Section 303.49, subsection 2, Code 1985, is amended to read as follows:

2. Following the initial special election, an annual election shall be held on the second Tuesday of each September at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. Notice of the election shall be posted by the county auditor at seven or more public places within the district at least two weeks prior to the date of the election. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in this division for the election on the question of establishing the district chapters 45 and 49. Each qualified elector at the election may write upon the ballot the name of vote for one person whom the elector desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

Sec. 2. Section 303.52, subsections 1, 2, and 4, Code 1985, are amended to read as follows:

1. The trustees elected under this division constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, vice president, clerk, and a treasurer from their own number and, from without their own number, employees of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district except to structures of an advertising or commercial nature located on the land.

4. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer such the compensation as it deems fit, not exceeding that authorized for the members of the board, from the funds of the district.

Sec. 3. NEW SECTION. 303.52A INCLUSION OR EXCLUSION OF LAND.

If at least sixty percent of the qualified electors of a land area petition the board of supervisors for inclusion in or exclusion from a land use district, the board shall review the petition and determine if the petition contains a sufficient number of qualified electors residing in the affected land area and, if the petition is sufficient, submit it to the board of trustees of the land use district. The land area to be included in or excluded from the land use district must be contiguous to the land use district. If two thirds of the membership of the board of trustees vote in favor of the petition, the petition shall be granted and the land area included in or excluded from the district.

Sec. 4. Section 303.55, Code 1985, is amended to read as follows:

303.55 MEMBERSHIP OF BOARD.

The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be are removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant. The compensation for the members of the board of adjustment is the same as for the members of the board of trustees.

Sec. 5. Section 303.57, Code 1985, is amended to read as follows:

303.57 APPEALS TO BOARD.

Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan or by a decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the administrative officer and the board of adjustment a notice of appeal specifying the grounds of the appeal.

Sec. 6. Section 303.59, Code 1985, is amended to read as follows:

303.59 DECISION.

In exercising its powers the board may, in conformity with this division, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such the order, requirement, decision, or determination as ought to should be made, and to that end shall have all the powers of the board of trustees from whom the appeal is taken administrative officer of the board.

Approved May 22, 1985

**CHAPTER 162**  
**UNDERGROUND STORAGE TANKS**  
*H.F. 643*

**AN ACT** relating to the authority of the department of water, air and waste management over underground tanks for storage of regulated substances and petroleum products, and subjecting violators to civil and criminal penalties.

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

**Section 1. NEW SECTION. 455B.461 DEFINITIONS.**

As used in this part unless the context otherwise requires:

1. "Nonoperational storage tank" means an underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after July 1, 1985.
2. "Operator" means a person in control of, or having responsibility for, the daily operation of the underground storage tank.
3. "Owner" means:
  - a. In the case of an underground storage tank in use on or after July 1, 1985, a person who owns the underground storage tank used for the storage, use, or dispensing of regulated substances.
  - b. In the case of an underground storage tank in use before July 1, 1985, but no longer in use on that date, a person who owned the tank immediately before the discontinuation of its use.
4. "Regulated substance" means an element, compound, mixture, solution or substance which, when released into the environment, may present substantial danger to the public health or welfare or the environment. Regulated substance includes substances designated in 40 C.F.R., Parts 61 and 116, and section 401.15, and petroleum including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute). However, regulated substance does not include a substance regulated as a hazardous waste under the Resource Conservation and Recovery Act of 1976. Substances may be added or deleted as regulated substances by rule of the commission pursuant to 455B.464.
5. "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into groundwater, surface water, or subsurface soils.
6. "Underground storage tank" means one or a combination of tanks, including underground pipes connected to the tanks which are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes, is ten percent or more beneath the surface of the ground. Underground storage tank does not include:
  - a. Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes.
  - b. Tanks used for storing heating oil for consumptive use on the premises where stored.
  - c. Residential septic tanks.

d. Pipeline facilities regulated under the Natural Gas Pipeline Safety Act of 1968, as amended to January 1, 1985 (49 U.S.C. § 1671 et seq.), the Hazardous Liquid Pipeline Safety Act of 1979, as amended to January 1, 1985 (49 U.S.C. § 2001 et seq.), or an intrastate pipeline facility regulated under chapter 479.

e. A surface impoundment, pit, pond, or lagoon.

f. A storm water or wastewater collection system.

g. A flow-through process tank.

h. A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

i. A storage tank situated in an underground area including, but not limited to, a basement, cellar, mineworking, drift, shaft, or tunnel if the storage tank is situated upon or above the surface of the floor. Underground storage tank does not include pipes connected to a tank described in paragraphs "a" to "i".

7. "Tank site" means a tank or grouping of tanks within close proximity of each other located on the facility for the purpose of storing regulated substances.

Sec. 2. NEW SECTION. 455B.462 DECLARATION OF POLICY.

The general assembly finds that the release of regulated substances from underground storage tanks constitutes a threat to the public health and safety and to the natural resources of the state, and that existing regulatory programs of the department and other agencies do not adequately or appropriately address this substantial public concern.

Sec. 3. NEW SECTION. 455B.463 REPORT OF EXISTING TANKS.

1. Except as provided in subsection 2, the owner or operator of an underground storage tank existing on or before July 1, 1985, shall notify the department in writing by May 1, 1986, of the existence of each tank and specify the age, size, type, location and uses of the tank.

2. The owner of an underground storage tank taken out of operation between January 1, 1974 and July 1, 1985, shall notify the department in writing by July 1, 1986, of the existence of the tank unless the owner knows the tank has been removed from the ground. The notice shall specify to the extent known to the owner, the date the tank was taken out of operation, the age of the tank on the date taken out of operation, the size, type and location of the tank, and the type and quantity of substances left stored in the tank on the date that it was taken out of operation.

3. An owner or operator which brings into use an underground storage tank after July 1, 1985, shall notify the department in writing within thirty days of the existence of the tank and specify the age, size, type, location and uses of the tank.

4. The notice of the owner or operator to the department under subsections 1 through 3 shall be accompanied by a fee of five dollars for each tank included in the notice. A separate fund is created in the state treasury, the receipts of which are appropriated to pay the administrative expenses of the department incurred under this part. All fees collected by the department under this subsection shall be credited to the fund. The unobligated or unencumbered balance in the fund as of June 30 of each year shall be transferred to the hazardous waste remedial fund.

5. Subsections 1 to 3 do not apply to an underground storage tank for which notice was given pursuant to section 103, subsection c, of the Comprehensive Environmental Response, Compensation and Liabilities Act of 1980.

6. A person who deposits a regulated substance in an underground storage tank shall notify the owner or operator in writing of their notification requirements pursuant to this section.

7. A person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of the tank in writing of the owner's notification requirements pursuant to this section.

Sec. 4. NEW SECTION. 455B.464 POWERS AND DUTIES OF COMMISSION.

The commission shall adopt rules pursuant to chapter 17A relating to:

1. Release detection, prevention, and correction as may be necessary to protect human health and the environment, applicable to all owners and operators of underground storage tanks. The rules shall include, but are not limited to, requirements for:

a. Maintaining a leak detection system, an inventory control system with a tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment.

b. Maintaining records of any monitoring or leak detection system, inventory control system, or tank testing or comparable system.

c. Reporting of any releases and corrective action taken in response to a release from an underground storage tank.

d. Taking corrective action in response to a release or threatened release from an underground storage tank including appropriate testing of drinking water which may be contaminated by the release.

e. The closure of tanks to prevent any future release of a regulated substance into the environment.

f. Specifying an adequate monitoring system to detect the presence of a leaking underground storage tank and to provide for protection of the groundwater resources for regulated tanks installed prior to May 1, 1986. The commission shall adopt these rules not later than April 1, 1986, however, the effective date of the rules adopted shall be May 1, 1988. In the event that federal regulations are adopted by the United States environmental protection agency after the commission has adopted state standards pursuant to this subsection, the commission shall immediately proceed to adopt rules consistent with those federal regulations adopted.

In adopting the rules under this subsection, the commission may distinguish between types, classes, and ages of underground storage tanks. In making the distinctions, the commission may take into consideration factors including, but not limited to, location of the tanks, compatibility of a tank material with the soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry recommended practices, national consensus codes, hydrogeology, water table, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tank, the degree of risk presented by the regulated substance, the technical and managerial capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the underground storage tank is fabricated.

2. The maintenance of evidence of financial responsibility as the executive director determines to be feasible and necessary for taking corrective action and for compensating third parties for bodily injury and property damage caused by release of a regulated substance from an underground storage tank.

a. Financial responsibility required by this subsection may be established in accordance with rules adopted by the commission by any one, or any combination, of the following methods: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In adopting requirements under this subsection, the commission may specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing the evidence of financial responsibility.



b. If the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal bankruptcy law or if jurisdiction in any state court or federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing the evidence of financial responsibility. In the case of action pursuant to this paragraph, the guarantor is entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

c. The total liability of a guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this subsection. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of the guarantor for bad faith in negotiating or in failing to negotiate the settlement of any claim. This subsection does not diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

d. For the purpose of this subsection, the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

3. Standards of performance for new underground storage tanks which shall include, but are not limited to, design, construction, installation, release detection, and compatibility standards. Until the effective date of the standards adopted by the commission and after January 1, 1986, a person shall not install an underground storage tank for the purpose of storing regulated substances unless the tank (whether of single or double wall construction) meets all the following conditions:

a. The tank will prevent release due to corrosion or structural failure for the operational life of the tank.

b. The tank is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance.

c. The material used in the construction or lining of the tank is compatible with the substance to be stored. If soil tests conducted in accordance with A.S.T.M., standard G 57-78 or another standard approved by the commission show that soil resistivity in an installation location is twelve thousand ohm/cm or more (unless a more stringent soil resistivity standard is adopted by rule of the commission), a storage tank without corrosion protection may be installed in that location until the effective date of the standards adopted by the commission and after January 1, 1986.

d. Rules adopted by the commission shall specify adequate monitoring systems to detect the presence of a leaking underground storage tank and to provide for protection of the groundwater resources from regulated tanks installed after May 1, 1986. The commission shall adopt these rules not later than January 1, 1986, however, the effective date of the rules adopted shall be May 1, 1986. In the event that federal regulations are adopted by the United States environmental protection agency after the commission has adopted state standards pursuant to this subsection, the commission shall immediately proceed to adopt rules consistent with those federal regulations adopted.

4. The form and content of the written notices required by section 455B.463.
5. The duties of owners or operators of underground storage tanks to locate and abate the source of release of regulated substances, when in the judgment of the executive director, the local hydrology, geology and other relevant factors reasonably include a tank as a potential source.
6. Reporting requirements necessary to enable the department to maintain an accurate inventory of underground storage tanks.
7. Designation of regulated substances subject to this part, consistent with section 455B.461, subsection 4. The rules shall be at least as stringent as the regulations of the federal government pursuant to section 311, subsection b, paragraph 2, subparagraph A of the Federal Water Pollution Control Act [33 U.S.C. § 1321(b)(2)(A)], pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. § 9602], pursuant to section 307, subsection a of the federal Water Pollution Control Act [33 U.S.C. § 1317(a)], pursuant to section 112 of the Clean Air Act [42 U.S.C. § 7412], or pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. § 2606].

The rules adopted by the commission under this section shall be consistent with and shall not exceed the requirements of federal regulations relating to the regulation of underground storage tanks except as provided in subsection 1, paragraph "f" and subsection 3, paragraph "d". It is the intent of the general assembly that state rules adopted pursuant to subsection 1, paragraph "f" and subsection 3, paragraph "d" be consistent with and not more restrictive than federal regulations adopted by the United States environmental protection agency when those rules are adopted.

**Sec. 5. NEW SECTION. 455B.465 POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR.**

The executive director shall:

1. Inspect and investigate the facilities and records of owners and operators of underground storage tanks as may be necessary to determine compliance with this part and the rules adopted pursuant to this part. An inspection or investigation shall be concluded subject to section 455B.103, subsection 8. For purposes of developing a rule, maintaining an accurate inventory or enforcing this part, the department may:

- a. Enter at reasonable times any establishment or other place where an underground storage tank is located.

- b. Inspect and obtain samples from any person of a regulated substance and conduct monitoring or testing of the tanks, associated equipment, contents or surrounding soils, air, surface water and groundwater. Each inspection shall be commenced and completed with reasonable promptness.

- (1) If the executive director obtains a sample, prior to leaving the premises, the executive director shall give the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If the sample is analyzed, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

- (2) Documents or information obtained from a person under this subsection shall be available to the public except as provided in this subparagraph. Upon a showing satisfactory to the executive director by a person that public disclosure of documents or information, or a particular part of the documents or information to which the executive director has access under this subsection would divulge commercial or financial information entitled to protection as a trade secret, the executive director shall consider the documents or information or the

particular portion of the documents or information confidential. However, the document or information may be disclosed to officers, employees or authorized representatives of the United States charged with implementing the federal Solid Waste Disposal Act, to employees of the state of Iowa or of other states when the document or information is relevant to the discharge of their official duties, and when relevant in any proceeding under the federal Solid Waste Disposal Act or this part.

2. Maintain an accurate inventory of underground storage tanks.

3. Take any action allowed by law which, in the executive director's judgment, is necessary to enforce or secure compliance with this part or any rule adopted under this part.

Sec. 6. NEW SECTION. 455B.466 VIOLATIONS.

1. If there is substantial evidence that a person has violated or is violating a provision of this part or a rule adopted under this part the executive director may issue an order directing the person to desist in the practice which constitutes the violation, and to take corrective action as necessary to ensure that the violation will cease, and may impose appropriate administrative penalties pursuant to section 455B.109. The person to whom the order is issued may appeal the order to the commission as provided in chapter 17A. On appeal, the commission may affirm, modify or vacate the order of the executive director.

2. However, if it is determined by the executive director that an emergency exists respecting any matter affecting or likely to affect the public health, the executive director may issue any order necessary to terminate the emergency without notice and without hearing. The order is binding and effective immediately and until the order is modified or vacated at a hearing before the commission or by a district court.

3. The executive director, with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to section 455B.467.

Sec. 7. NEW SECTION. 455B.467 PENALTIES — BURDEN OF PROOF.

1. A person who violates a provision of this part or a rule or order issued under this part is subject to a civil penalty not to exceed five thousand dollars for each day during which the violation continues. The civil penalty is an alternative to a criminal penalty provided under this part.

2. A person who knowingly fails to notify or makes a false statement, representation, or certification in a record, report, plan or other document filed or required to be maintained under this part or who falsifies, tampers with or knowingly renders inaccurate a monitoring device or method required to be maintained under this part or by a rule or order issued under this part, is guilty of an aggravated misdemeanor.

3. The attorney general, at the request of the executive director with approval of the commission, shall institute any legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of this part or to obtain compliance with the provisions of this part or rules adopted or order issued under this part. In any action, previous findings of fact of the executive director or the commission after notice and hearing are conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

4. In all proceedings with respect to an alleged violation of a provision of this part or a rule adopted or order issued by the commission, the burden of proof is upon the commission or the department.

5. If the attorney general has instituted legal proceedings in accordance with this section, all related issues which could otherwise be raised by the alleged violator in a proceeding for judicial review under section 455B.468 shall be raised in the legal proceedings instituted in accordance with this section.

Sec. 8. NEW SECTION. 455B.468 JUDICIAL REVIEW.

Except as provided in section 455B.467, subsection 5, judicial review of an order or other action of the commission or the executive director may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed or the final order was entered.

Sec. 9. Sections 1 through 8 of this Act shall be codified as a new part of chapter 455B, division IV.

Approved May 22, 1985

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**CHAPTER 163**  
DRAINAGE AND DRAINAGE DISTRICTS  
*H.F. 678*

**AN ACT** relating to drainage and drainage districts.

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

Section 1. Section 455.33, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Following its establishment, the drainage district is deemed to have acquired by permanent easement all right-of-way for drainage district ditches, tile lines, settling basins and other improvements, unless they are acquired by fee simple, in the dimensions shown on the survey and report made in compliance with sections 455.17 and 455.18 or as shown on the permanent survey, plat and profile, if one is made. The permanent easement includes the right of ingress and egress across adjoining land and the right of access for maintenance, repair, improvement and inspection. The owner or lessee shall be reimbursed for any crop damages incurred in the maintenance, repair, improvement and inspection.

Sec. 2. Section 455.64, subsection 2, Code 1985, is amended to read as follows:

2. To pay such assessments in not less than ten nor more than twenty equal installments, the number to be fixed by the board and interest at the rate fixed by the board, not exceeding that permitted by chapter 74A. One such installment shall be payable at the September semiannual taxpaying date in each year; provided, however, that the county treasurer shall, at the September semiannual taxpaying date, require only the payment of a sufficient portion of the assessments to meet the interest and the amount maturing on bonds or certificates prior to the regular time for the payment of the second installment of taxes and the balance shall be collected with such second installment and without penalty. The first installment of each assessment, or the total amount if less than one hundred dollars is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer

after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of acceptance of the work by the board to the first day of December following the due date. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the first semiannual payment of ordinary taxes. All future installments of an assessment may be paid on any date by payment of the then outstanding balance plus interest accrued to the date of payment. Each installment of an assessment with interest on the unpaid balance is delinquent after the thirtieth day of September next after its due date, and bears the same delinquent interest with the same penalties as ordinary taxes. When collected, the interest and penalties must be credited to the same drainage fund as the drainage special assessment.

Sec. 3. Section 455.111, Code 1985, is amended to read as follows:

455.111 COMPLETION OF WORK — REPORT — NOTICE.

When the work to be done under any contract is completed to the satisfaction of the engineer in charge of construction, the engineer shall so report and certify to the board, which shall fix a day to consider said the report and shall give notice of the time and purpose of such the meeting by one publication in a newspaper of general circulation published in said county ordinary mail to the landowners of the district and the date fixed for considering said the report shall be not less than five ten days after the date of such publication mailing.

Sec. 4. NEW SECTION. 455.127A ABANDONED RIGHT-OF-WAY.

If a railroad or other utility has abandoned the use of its right-of-way for the purpose it was originally acquired or has sold its right-of-way to a person who will use it for a purpose other than for which it was originally acquired, the prior right or privilege of the drainage district to pass through the right-of-way of the railroad or utility shall become a permanent easement in favor of the drainage district for drainage purposes including the right of ingress and egress through adjacent property and the right of access for maintenance, repair, improvement and inspection. The permanent easement has the same dimensions as originally specified in the engineer's report and survey, or as acquired by use or as subsequently acquired.

If a railroad or other utility has abandoned the use of its right-of-way for the purpose it was originally acquired or has sold its right-of-way to a person who will use it for a purpose other than for which it was originally acquired in segments, each segment shall be assessed for benefits in the same proportion as the area of the segment bears to the area of the right-of-way through the forty-acre tract.

Sec. 5. Section 455.128, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The right of remonstrance, as provided under section 455.34, does not apply to the owners of lands being involuntarily annexed to an established district.

Sec. 6. Section 455.129, Code 1985, is amended to read as follows:

455.129 PROCEEDINGS ON REPORT.

If such the report recommends the annexation of such the lands or any portion thereof of them, the board shall consider such the report, plats, and profiles and if satisfied that any of such the lands are materially benefited by the district and that such annexation is feasible, expedient, and for the public good, it shall proceed in all respects as to notice, hearing, appointment of appraisers to fix damages and as to hearing thereon on the annexation; and (if such the annexation is finally made), as to classification and assessment of benefits to the annexed lands only, to the same extent and in the same manner as provided in the establishment of an

original district. However, the annexation and classification of the annexed lands for benefits may be determined at one hearing. Those parties having an interest in the lands proposed to be annexed shall have the right to receive notice, to make objections, to file claims for damages, to have hearing, to take appeals and to do all other things to the same extent and in the same manner as provided in the establishment of an original district.

Sec. 7. Section 455.130, Code 1985, is amended to read as follows:

455.130 LEVY ON ANNEXED LANDS.

After ~~such~~ annexation is made the board ~~shall~~ may levy upon the annexed lands an assessment sufficient to equal the assessments for benefit originally paid by the lands of equal classification if the finding by the board as provided by section 455.128 was that ~~said~~ the lands should have been included in the district when originally established, plus their proportionate share of the costs of any enlargement or extension of drains required to serve the annexed lands. If the finding of the board as provided in section 455.128 was based on the fact that additional lands are now benefited by virtue of the repair, or improvement, or the change of the topographical conditions made to said the district and were not benefited by the district as originally established, then the board shall levy upon said the annexed lands an assessment sufficient to pay their proportionate share of the costs of said the repair or improvement which was the basis for the lands being annexed. If the board finds that the lands are presently receiving benefits from the district but that some were reasonably omitted from the original establishment because of the change of the topographical conditions, the assessments levied upon the annexed lands shall be limited to a proportionate share of the costs of current and future maintenance, repairs and improvements.

Sec. 8. Section 455.135, subsection 1, paragraph c, Code 1985, is amended to read as follows:

c. If the estimated cost of any repair exceeds ten thousand dollars, or seventy-five percent of the original total cost of the district and subsequent improvements, whichever is the greater amount, the board shall set a date for a hearing on the matter of making the proposed repairs, and shall give notice as provided in sections 455.20 to 455.24. If a hearing is required and the estimated cost of the repair exceeds twenty-five thousand dollars, an engineer's report or a report from the soil conservation district conservationist shall be presented at the hearing. The requirement of a report may be waived by the board if a prior report on the repair exists and that report is less than ten years old. The board shall not divide proposed repairs into separate programs in order to avoid the notice and hearing requirements of this paragraph. At the hearing the board shall hear objections to the feasibility of the proposed repairs, and following the hearing the board shall order that the repairs it deems desirable and feasible be made. Any interested party shall have has the right of appeal from such orders in the manner provided in this chapter.

Sec. 9. Section 455.135, subsection 8, Code 1985, is amended to read as follows:

8. If the drainage records on file in the auditor's office for a particular district do not define specifically the land taken for right of way for drainage purposes, the board may at any time upon its own motion employ a land surveyor to make a survey and report of said the district and to actually define the right of way taken for drainage purposes. After the land surveyor has filed the survey and report with the board, the board shall fix a date for hearing on said the report and shall serve notice of said the hearing upon all landowners and lienholders of record and occupants of the lands traversed by said the right of way in the manner and for the time required for service of original notices in the district court. At the hearing the board shall specifically define the land taken for the right-of-way. Once established, the right-of-way constitutes a permanent easement in favor of the drainage district for drainage purposes including the right of ingress and egress across adjoining land and the right of access for maintenance, repair, improvement and inspection. A person aggrieved by the action or failure to act of the board under this subsection may appeal only in compliance with sections 455.92 through 455.108.

Sec. 10. Section 455.147, Code 1985, is amended to read as follows:

455.147 LEVY UNDER RECLASSIFICATION.

If the amount finally charged against a district exceeds twenty-five percent of the original cost of the improvement, the board ~~shall~~ may order a reclassification as provided for the original classification of a district and upon the final adoption of the new classification and apportionment shall proceed to levy ~~said that~~ amount upon all lands, highways, and railway rights of way and property within the district, in accordance with ~~said the~~ new classification and apportionment. ~~Any~~ An assessment made under this section on ~~any a~~ tract, parcel or lot within the district which is computed at less than two dollars shall be fixed at the sum of two dollars.

Sec. 11. Section 462.18, Code 1985, is amended to read as follows:

462.18 CANVASS — CERTIFICATES OF ELECTION.

The canvass of the returns by the board or boards of supervisors shall be on the next Monday following ~~said the election and it~~. If the district is in more than one county, the board of supervisors of the county with the greatest acreage in the district shall canvass the vote. The board of supervisors of the other counties in which the district is located may attend and participate in the canvass of the returns. It or they shall make a return of the results of such the canvass to the auditor, who shall issue certificates to the trustees elected, and when the district extends into more than one county, then the auditor with whom the election returns were filed shall issue such the certificates and certify an abstract of the canvass to each other county in which the district is located.

Sec. 12. Section 462.22, Code 1985, is amended to read as follows:

462.22 ELECTIONS — HOW CONDUCTED.

After the first election of trustees, the trustees shall act as judges of election; ~~the~~ however, a trustee standing for election shall not serve as a judge and shall be replaced as judge by a person not standing for election who is eligible to be elected as a trustee. The clerk of the board shall act as one of the clerks; and some owner of land in the district shall be appointed by the board to act as another clerk. The trustees shall fill all vacancies in the election board. The result of each election shall be certified to the auditor or the several county auditors if the district is located in more than one county.

Sec. 13. Section 467A.4, subsection 4, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. To establish a position of state drainage coordinator for drainage districts and drainage and levee districts which will keep the management of those districts informed of the activities and experience of all other such districts and facilitate an interchange of advice, experience and cooperation among the districts, coordinate by advice and consultation the programs of the districts, secure the cooperation and assistance of the United States and its agencies and of the agencies of this state and other states in the work of the districts, disseminate information throughout the state concerning the activities and programs of the districts and provide other appropriate assistance to the districts.

Approved May 22, 1985

**CHAPTER 164**  
**THEFT OF SERVICES**  
*H.F. 702*

**AN ACT** including in the definition of theft certain acts relating to public utilities and cable television services and making penalties applicable.

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

Section 1. Section 714.1, Code 1985, is amended by adding the following new subsection as subsection 7 and renumbering succeeding subsections:

NEW SUBSECTION. 7. Obtains gas, electricity or water from a public utility or obtains cable television service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

Approved May 22, 1985

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**CHAPTER 165**  
**GIFTS TO COMMISSION FOR THE BLIND**  
*H.F. 319*

**AN ACT** relating to accrued interest from certain gifts received by the commission for the blind.

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

Section 1. NEW SECTION. 601B.8 INTEREST.

Notwithstanding sections 8.33 and 453.7, the interest accrued from gifts, grants, devises, or bequests pursuant to section 601B.6, subsection 11, shall not revert to the general fund of the state.

Approved May 22, 1985



**CHAPTER 166**  
**DRAINAGE PUMPING STATIONS**  
*H.F. 231*

**AN ACT** relating to the establishment and maintenance of pumping stations in drainage districts.

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

Section 1. Section 461.2, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, the board of supervisors may install a temporary portable pumping station to remove flood waters in an emergency. The board of supervisors shall levy and collect the cost of the purchase, operation and maintenance of the pumping station from the lands in the district benefited by the pumping station in the same manner as provided for in the construction and maintenance of a drainage or levee district. For the purpose of this paragraph an emergency occurs when ponded or standing water does not freely flow to the outlet ditch and the capacity of the outlet ditch is not fully used.

Approved May 22, 1985

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**CHAPTER 167**  
**SAFETY OF ROAD WORKERS**  
*H.F. 378*

**AN ACT** relating to the safety of road maintenance workers.

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

Section 1. Section 321.233, unnumbered paragraph 1, Code 1985, is amended to read as follows:

This chapter, except section 321.277 and sections 321.280 to 321.282 does not apply to persons and motor vehicles and other equipment while actually engaged in work upon the surface of a highway officially closed to traffic but does apply to such persons and vehicles when traveling to or from such work. Sections The minimum speed restriction of section 321.285, subsection 8, and the provisions of sections 321.297 and 321.298 do not apply to road workers

operating maintenance equipment owned by or under lease to any state or local authority while engaged in road maintenance, road blading, snow and ice control and removal, and granular resurfacing work on a highway, whether or not the highway is closed to traffic.

Sec. 2. Section 321.288, Code 1985, is amended to read as follows:

**321.288 CONTROL OF VEHICLE.**

1. A person operating a motor vehicle shall have the ~~same~~ vehicle under control at all times ~~and~~.

2. A person operating a motor vehicle shall reduce the speed to a reasonable and proper rate:

1 a. When approaching and passing a person walking in the traveled portion of the public highway.

2 b. When approaching and passing an animal which is being led, ridden, or driven upon a public highway.

3 c. When approaching and traversing a crossing or intersection of public highways, or a bridge, ~~or a sharp turn, or a curve, or a steep descent,~~ in a public highway.

4 d. When approaching and passing a fusee, flares, red reflector electric lanterns, red reflectors or red flags displayed in accordance with section 321.448, or an emergency vehicle displaying a revolving or flashing light.

5 e. When approaching and passing a slow moving vehicle displaying a reflective device as provided by section 321.383.

f. When approaching and passing through a sign posted construction or maintenance zone upon the public highway.

Approved May 22, 1985

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## CHAPTER 168

### LICENSURE OF DIETICIANS

*H.F. 730*

**AN ACT** relating to the licensure of dietitians.

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

Section 1. Section 147.1, subsections 2 and 3, Code 1985, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, practitioner of cosmetology, practitioner of barbering, funeral director, dietitian, or social worker means a person licensed under this title.

3. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, mortuary science, ~~or social work or dietetics~~.

Sec. 2. Section 147.2, Code 1985, is amended to read as follows:

147.2 LICENSE REQUIRED.

No person shall engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, pharmacy, cosmetology, barbering, dietetics, or mortuary science as defined in the following chapters of this title, unless the person has obtained from the state department of health a license for that purpose.

Sec. 3. Section 147.3, Code 1985, is amended to read as follows:

147.3 QUALIFICATIONS.

An applicant for a license to practice a profession under this title is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. ~~Any~~ A board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of medicine, podiatry, osteopathy, osteopathy and surgery, chiropractic, nursing, psychology, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, mortuary science ~~or social work or dietetics~~ for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. 4. Section 147.13, Code 1985, is amended to read as follows:

147.13 DESIGNATION OF BOARDS.

The examining boards provided in section 147.12 shall be designated as follows: For medicine and surgery, and osteopathy, and osteopathic medicine and surgery, medical examiners; for psychology, psychology examiners; for podiatry, podiatry examiners; for chiropractic, chiropractic examiners; for physical therapists and occupational therapists, physical and occupational therapy examiners; for nursing, board of nursing; for dentistry and dental hygiene, dental examiners; for optometry, optometry examiners; for speech pathology and audiology, speech pathology and audiology examiners; for cosmetology, cosmetology examiners; for barbering, barber examiners; for pharmacy, pharmacy examiners; for mortuary science, mortuary science examiners; for social workers, social work examiners; for dietetics, dietetic examiners.

Sec. 5. Section 147.14, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 11. For dietetic examiners, one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics in hospitals, one licensed dietitian representing community nutrition services and two members who are not licensed dietitians and who shall represent the general public. A majority of the members of the board constitute a quorum.

Sec. 6. Section 147.25, unnumbered paragraph 4, Code 1985, is amended to read as follows:

In addition to any other fee provided by law, a fee may be set by the respective examining boards for each license and renewal of a license to practice medicine, surgery, podiatry, osteopathy, osteopathic medicine and surgery, chiropractic, nursing, dentistry, dental hygiene, optometry, pharmacy, physical therapy, occupational therapy, social work, ~~and~~ veterinary medicine, dietetics, which fee shall be based on the annual cost of collecting information for use by the department of health in the administration of the system of health personnel statistics established by this section. The fee shall be collected, transmitted to the treasurer of state and deposited in the general fund of the state in the manner in which license and renewal fees of the respective professions are collected, transmitted, and deposited in the general fund.

Sec. 7. Section 147.80, Code 1985, is amended by adding the following new subsection:  
**NEW SUBSECTION. 21.** License to practice dietetics issued upon the basis of an examination given by the board of dietetic examiners, license to practice dietetics or nutrition issued under a reciprocal agreement, or renewal of a licensed\* to practice dietetics or nutrition.

Sec. 8. **NEW SECTION. 158A.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Licensed dietitian" or "dietitian" means a person who holds a valid license to practice dietetics pursuant to this chapter.

2. "Board" means the board of dietetic examiners.

Sec. 9. **NEW SECTION. 158A.2 LICENSE REQUIREMENTS.**

1. An applicant shall be issued a license to practice dietetics by the board when the applicant satisfies all of the following:

a. Possesses a baccalaureate degree or postbaccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or food systems management, or in an equivalent major course of study which meets minimum academic requirements as established by the American dietetic association and approved by the board.

b. Completes an internship or preplanned professional experience program approved by the American dietetic association and approved by the board.

c. Satisfactorily completes an examination designed by the board.

2. Renewal of a license granted under this chapter shall not be approved unless the applicant has satisfactorily completed the continuing education requirements for the license as prescribed by the board.

Sec. 10. **NEW SECTION. 158A.3 EXEMPTIONS.**

The following are not subject to this chapter:

1. Licensed physicians and surgeons, nurses, chiropractors, dentists, dental hygienists, pharmacists or physical therapists who make dietetic or nutritional assessments, or give dietetic or nutritional advice in the normal practice of their profession or as otherwise authorized by law.

2. Dietetics students who engage in clinical practice under the supervision of a dietitian as part of a dietetic education program approved or accredited by the American dietetic association.

3. Dietitians who serve in the armed forces or the public health service of the United States or are employed by the veterans administration, provided their practice is limited to that service or employment.

4. Dietitians who are licensed in another state, United States possession, or country, or have received at least a baccalaureate degree and are in this state for the purpose of:

a. Consultation, provided the practice in this state is limited to consultation.

b. Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education which is sponsored by a dietetic education program or accredited by the American dietetic association and carried out in an educational institution or its affiliated clinical facility or health care agency, or before a group of licensed dietitians.

5. Individuals who do not call themselves dietitians but routinely, in the course of doing business, market or distribute weight loss programs or sell nutritional products and provide explanations for customers regarding the use of the programs or products relative to normal nutritional needs.

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\*According to enrolled Act

6. Individuals who provide routine education and advice regarding normal nutritional requirements and sources of nutrients, including, but not limited to, persons who provide information as to the use and sale of food and food materials including dietary supplements.

Sec. 11. Notwithstanding section 2 of this Act, for one year, beginning on the effective date of this Act, the board shall waive the examination requirement as described in section 2 and shall grant a license to any applicant who is registered by the commission on dietetic registration, or who has met the American dietetic association's academic requirements for registry eligibility and has been actively engaged in the practice of dietetics for at least three of the preceding five years.

Sec. 12. Notwithstanding section 147.19, of the initial appointees to the board, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years and two members shall be appointed for a term of three years. The initial appointees' successors shall be appointed for terms of three years each, except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member replaced.

Approved May 22, 1985

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## CHAPTER 169

### CLINICAL PRIVILEGES OF CERTAIN PRACTITIONERS

*H.F. 308*

**AN ACT** relating to clinical privileges of certain licensed practitioners.

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

Section 1. Section 135B.7, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The rules shall state that a hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths or osteopathic surgeons, or dentists licensed under chapter 148, 149, 150, 150A, or 153, solely by reason of the license held by the practitioner.

Approved May 22, 1985

**CHAPTER 170**  
**SOIL CONSERVATION LOAN FUND**  
*S.F. 264*

**AN ACT** to eliminate the net worth eligibility requirement for loans from the conservation practices revolving loan fund.

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

Section 1. Section 467A.71, subsection 1, Code 1985, is amended to read as follows:

1. The state soil conservation committee may establish a conservation practices revolving loan fund composed of any money appropriated by the general assembly for that purpose, and of any other moneys available to and obtained or accepted by the committee from the federal government or private sources for placement in that fund. Except as otherwise provided by subsection 3, the assets of the conservation practices revolving loan fund shall be used only to make loans directly to owners of land in this state ~~with a net worth not to exceed three hundred thousand dollars~~ for the purpose of establishing on that land any new permanent soil and water conservation practice which the commissioners of the soil conservation district in which the land is located have found is necessary or advisable to meet the soil loss limits established for that land. A loan shall not be made for establishing a permanent soil and water conservation practice on land that is subject to the restriction on state cost-sharing funds of section 467A.65. Revolving loan funds and public cost-sharing funds shall not be used in combination for funding a particular soil and water conservation practice. ~~The net worth of the applicant shall be provided by a financial institution of the state of Iowa.~~ Each loan made under this section shall be for a period not to exceed ten years, shall bear no interest, and shall be repayable to the conservation practices revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants shall be eligible for no more than ten thousand dollars in loans outstanding at any time under this program. "Permanent soil and water conservation practices" has the same meaning as defined in section 467A.42 and those established under this program are subject to the requirements of section 467A.7, subsection 16. Loans made under this program shall come due for payment upon sale of the land on which those practices are established.

Approved May 22, 1985

**CHAPTER 171**  
**NOXIOUS WEEDS**

*S.F. 406*

**AN ACT** relating to the destruction of noxious weeds and providing a penalty.

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

Section 1. Section 317.1, subsection 2, Code 1985, is amended to read as follows:

2. Secondary noxious weeds, which shall include butterprint (*Abutilon theophrasti*) annual, cocklebur (*Xanthium commune*) annual, wild mustard (*Brassica arvensis*) annual, wild carrot (*Daucus carota*) biennial, buckhorn (*Plantago lanceolata*) perennial, sheep sorrel (*Rumex acetosella*) perennial, sour dock (*Rumex crispus*) perennial, smooth dock (*Rumex altissimus*) perennial, poison hemlock (*Conium maculatum*), multiflora rose (*Rosa multiflora*), wild sunflower (wild strain of *Helianthus annus* L.) annual, puncture vine (*Tribulus terrestris*) annual, teasel (*Dipsacus*) biennial, and shattercane (*Sorghum bicolor*) annual.

PARAGRAPH DIVIDED. The multiflora rose (*Rosa multiflora*) shall not be considered a secondary noxious weed when cultivated for or used as understock for cultivated roses or as ornamental shrubs in gardens, or in any county whose board of supervisors has by resolution declared it not to be a noxious weed. Shattercane (*Sorghum bicolor*) shall not be considered a secondary noxious weed when cultivated or in any county whose board of supervisors has by resolution declared it not to be a noxious weed.

Sec. 2. Section 317.8, Code 1985, is amended by adding the following new subsection:

4. The secretary shall aid the supervisors in enforcement of the weed law as it applies to all state lands, state parks and primary roads, and may impose a maximum penalty of a ten dollar fine for each day, up to ten days, that the state agency in control of land fails to comply with an order for destruction of weeds made pursuant to this chapter.

Sec. 3. Section 317.13, Code 1985, is amended to read as follows:

**317.13 PROGRAM OF CONTROL.**

The board of supervisors of each county ~~shall~~ may each year, upon recommendation of the county weed commissioner, ~~or commissioners,~~ by resolution prescribe and order a program of weed destruction ~~to be followed by landowners or tenants or both, which may be expected to destroy and immediately keep under control any areas infested with any noxious weeds on farm land, and shall designate the destruction dates to prevent seed production of all varieties of noxious weeds. Quack grass in pasture land, rough timbered land or on the highways, railway rights of way and public lands, when acting as soil binder, may be exempt from such order if approved by the supervisors.~~

Sec. 4. Section 317.16, Code 1985, is amended to read as follows:

**317.16 FAILURE TO COMPLY.**

In case of a substantial failure to comply by the date prescribed in any order of destruction of weeds made pursuant to this chapter, the weed commissioner or the deputies ~~shall~~ may, subsequent to the time after service of the notice provided for in section 317.6 enter upon the land and cause the weeds to be destroyed, or may impose a maximum penalty of a ten dollar

fine for each day, up to ten days, that the owner or person in control of the land fails to comply. If a penalty is imposed and the owner or person in control of the land fails to comply, the weed commissioner shall cause the weeds to be destroyed. The If the weed commissioner enters the land and causes the weeds to be destroyed, the actual cost and expense of cutting, burning or otherwise destroying the weeds, along with the cost of serving notice and special meetings or proceedings, if any, shall be paid by the county and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21. Any fine imposed shall be recovered by a similar assessment.

Sec. 5. Section 317.18, Code 1985, is amended to read as follows:

**317.18 ORDER FOR DESTRUCTION ON ROADS.**

The board of supervisors ~~shall~~ may order all weeds ~~other than~~ noxious weeds, ~~on~~ within the right-of-way of all county trunk and local county roads ~~and between the fence lines~~ to be cut, burned or otherwise destroyed to prevent seed production, either upon its own motion or upon receipt of written notice requesting the action from any residents of the township in which the roads are located, or any person regularly using the roads. The order shall define the roads along which noxious weeds are required to be cut, burned or otherwise destroyed and shall require the weeds to be cut, burned or otherwise destroyed within ~~thirty~~ fifteen days after the publication of the order in the official newspapers of the county. ~~If the adjoining owner fails to cut, burn or otherwise destroy the weeds as required in the order, the county commissioner shall have them cut, burned or otherwise destroyed and the cost shall be paid by the county and recovered later by an assessment against the adjoining property owners as provided in section 317.21.~~

Sec. 6. Section 317.19, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The board of supervisors may appropriate moneys to be used for the purposes of cutting, burning, or otherwise destroying weeds or brush ~~between the fence rows on the~~ within the right-of-way of county trunk roads and local county roads in time to prevent reseeding.

Sec. 7. Section 317.21, unnumbered paragraph 1, Code 1985, is amended to read as follows:

When the commissioner, ~~or commissioners, destroy~~ destroys any weeds under the authority of ~~sections section~~ section 317.16 ~~or 317.18~~, after failure of the landowner responsible ~~therefor~~ to destroy such weeds pursuant to the order of the board of supervisors, the cost of ~~such~~ the destruction shall be assessed against the land and collected from the landowner responsible in the following manner:

Approved May 22, 1985



**CHAPTER 172**  
**REPARATIONS FOR MEDICAL CARE AND COUNSELING**  
*H.F. 413*

**AN ACT** relating to reparations for medical care and counseling under chapter 912 for victims of domestic abuse and sexual assault and for child victims.

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

Section 1. Section 912.6, Code 1985, is amended by adding the following new subsections after subsection 1 and renumbering the subsequent subsections:

**NEW SUBSECTION. 2.** Reasonable charges incurred for counseling provided to victims of domestic abuse, as defined in section 236.2, to victims of sexual assault, or to victims under eighteen years of age by a psychologist licensed under chapter 154B or by an individual holding at least a master's degree in social work or counseling and guidance, not to exceed five hundred dollars.

**NEW SUBSECTION. 3.** Reasonable charges incurred for victim counseling provided by a victim counselor as defined in section 236.17, as contained in 1985 Iowa Acts, House File 549, if enacted, not to exceed five hundred dollars.

Sec. 2. Section 912.7, Code 1985, is amended by adding the following new subsection after subsection 2 and renumbering the subsequent subsection:

**NEW SUBSECTION. 3.** Notwithstanding subsection 2, paragraph "b" or "c", reparation for medical care under section 912.6, subsection 1 or for counseling under section 912.6, subsection 1, 2, or 3 shall be made if the bodily injury or death for which reparation is sought was caused by an act of domestic abuse, as defined in section 236.2, committed by a spouse of the victim or by a person living in the same household with the victim, if the victim seeks and receives victim counseling which qualifies for reparation under section 912.6, subsection 1, 2, or 3, and one of the following applies:

a. The act is the first act of domestic abuse involving the alleged perpetrator reported by the victim.

b. The act is the second act of domestic abuse involving the same alleged perpetrator reported by the victim, and a criminal complaint or trial information is filed or a grand jury returns an indictment against the alleged perpetrator.

Sec. 3. This Act applies to crime reports received on or after the effective date of this Act by a local police department or county sheriff department, or if a crime report is not required, to reports received on or after the effective date of this Act by the department of human services or to reparation claims filed on or after the effective date of this Act by a licensed or certified professional providing immediate or short-term medical services or mental health services to a child victim.

Approved May 23, 1985

**CHAPTER 173**  
**CHILD PROTECTION**  
*H.F. 451*

**AN ACT** relating to child protection and providing penalties.

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

Section 1. NEW SECTION. 144.13A REGISTRATION FEE.

The local registrar and state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person shall collect the fee from the parent. The fee shall be remitted to the appropriate registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A or paid for under the statewide indigent patient care program established by chapter 249A or paid for under the statewide indigent patient care program established by chapter 255, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee is waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the local registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs.

Sec. 2. Section 232.68, subsection 6, paragraph c, Code 1985, is amended to read as follows:

c. An employee or agent of any public or private facility providing care for a child, including an institution, hospital, health care facility, group home, mental health center, residential treatment center, shelter care facility, detention center, or child care facility.

Sec. 3. Section 232.69, subsection 1, paragraph b, Code 1985 is amended to read as follows:

b. Every self-employed social worker, every social worker under the jurisdiction of the department of human services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee or operator of a licensed child care center or registered group day care home or registered family day care home, individual licensee under chapter 237, member of the staff of a mental health center, or peace officer, who, in the course of employment or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse. If a person is required to report under this section as a member of the staff of a public or private institution, agency or facility, that person shall immediately notify the person in charge of the institution, agency or facility, or that person's designated agent, and the person in charge of the institution, agency, or facility, or the designated agent shall make the report.

Sec. 4. Section 232.69, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. Every health practitioner who examines, attends, or treats a child and who reasonably believes the child has been abused. ~~If, however, the health practitioner examines, attends, or treats the child as a member of the staff of a hospital or similar institution, the examining health practitioner shall immediately notify and give complete information to the person in charge of the institution or the health practitioner's designated agent and the person in charge of the institution or designated agent shall make the report.~~

Sec. 5. Section 232.69, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within one year of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on a regular basis. The person shall complete at least two hours of additional child abuse identification and reporting training every five years. If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the child abuse identification and reporting training. If the person is self-employed, the person shall be responsible for obtaining the child abuse identification and reporting training. The person may complete the initial or additional training as part of a continuing education program required under chapter 258A or may complete the training as part of a training program offered by the department of human services, the department of public instruction, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.

Sec. 6. Section 232.71, subsection 2, paragraph e, Code 1985, is amended by striking the paragraph.

Sec. 7. Section 232.71, subsection 3, Code 1985, is amended to read as follows:

3. The investigation may with the consent of the parent or guardian include a visit to the home of the child or with the consent of the administrator of a facility include a visit to the facility providing care to the child named in the report and examination of ~~such~~ the child. If permission to enter the home or facility and to examine the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the investigation to enter the home or facility and examine the child. The department may utilize a multidisciplinary team in investigations of child abuse involving employees or agents of a facility providing care for a child.

Sec. 8. Section 232.71, Code 1985, is amended by adding the following new subsection after subsection 3 and renumbering the subsequent subsections:

NEW SUBSECTION. 4. Based on an investigation of alleged child abuse by an employee of a facility providing care to a child, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:

- a. A violation of facility policy noted in the investigation.
- b. An instance in which facility policy or lack of facility policy may have contributed to the alleged child abuse.
- c. An instance in which general practice in the facility appears to differ from the facility's written policy.

The licensing authority, the governing body, and the administrator in charge of the facility shall take any lawful action which may be necessary or advisable to protect children residing in the facility.

Sec. 9. Section 232.71, subsection 6, Code 1985, is amended to read as follows:

6. The department of human services, upon completion of its investigation, shall make a preliminary report of its investigation as required by subsection 2. A copy of this report shall be transmitted to juvenile court within ninety-six hours after the department of human services initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the juvenile court grants an extension of time for good cause shown. The department shall notify a subject of the report of the result of the investigation, of the subject's right to correct the information pursuant to section 235A.19, and of the procedures to correct the information. The juvenile court shall notify the registry of any action it takes with respect to a suspected case of child abuse.

Sec. 10. Section 232.78, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. The parent, guardian, legal custodian, or employee of the child day care facility is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section, or the parent, guardian, or legal custodian has a prior instance of flight to avoid a child abuse investigation.

Sec. 11. Section 232.78, Code 1985, is amended by adding the following new subsection as subsection 4 and renumbering as necessary:

NEW SUBSECTION. 4. The juvenile court, before or after the filing of a petition under this chapter, may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section 154B.7, or a community mental health center accredited pursuant to chapter 230A to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and cause of injuries to the child as required by section 232.71, subsection 2, provided all of the following apply:

a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to provide written consent to the examination.

b. The juvenile court has entered an ex parte order directing the removal of the child from the child's home or a child day care facility under this section.

c. There is not enough time to file a petition and to hold a hearing as provided in section 232.98.

Sec. 12. Section 232.98, subsection 1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

A Except as provided in section 232.78, subsection 4, a physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 and after a hearing to determine whether an examination is necessary to determine the child's physical or mental condition.

Sec. 13. Section 232.102, Code 1985, is amended by adding the following new subsection as subsection 2 and renumbering as necessary:

NEW SUBSECTION. 2. After a dispositional hearing and upon the request of the department, the court may enter an order appointing the department as the guardian of an unaccompanied refugee minor or of a child without parent or guardian.

Sec. 14. Section 232.141, subsection 2, Code 1985, is amended to read as follows:

2. Whenever If legal custody of a minor is transferred by the court or whenever, if the minor is placed by the court with someone other than the parents, or whenever if a minor is

given physical or mental examinations or treatment under order of the court and no provision is otherwise made by law for payment for the care, examination, or treatment of the minor, the costs shall be charged upon the funds of the county in which the proceedings are held upon certification of the judge to the board of supervisors. If a minor is given physical or mental examinations or treatment with the consent of the parent, guardian, or legal custodian relating to a child abuse investigation and no other provision is otherwise made by law for payment for the examination or treatment of the minor, the costs shall be charged upon the funds of the county in which the child resides upon certification of the department to the board of supervisors. Except where the parent-child relationship is terminated, the court may inquire into the ability of the parents to support the minor and after giving the parents a reasonable opportunity to be heard may order the parents to pay in the manner and to whom the court may direct, such sums as will cover in whole or in part the cost of care, examination, or treatment of the minor. An order entered under this section shall not obligate a parent paying child support under a custody decree, except that any part of such a monthly support payment may be used to satisfy the obligations imposed by an order entered under this section. If the parents fail to pay the sum without good reason, the parents may be proceeded against for contempt or the court may inform the county attorney who shall proceed against the parents to collect the unpaid sums or both. Any such sums ordered by the court shall be a judgment against each of the parents and a lien as provided in section 624.23. If all or any part of the sums that the parents are ordered to pay is subsequently paid by the county, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of such the county's payments.

Sec. 15. Section 232.149, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** This section does not prohibit a criminal justice agency from disclosing or releasing pursuant to chapter 694 the identity of a missing child or information useful in the recovery of a missing child.

Sec. 16. Section 235A.15, Code 1985, is amended to read as follows:

**235A.15 AUTHORIZED ACCESS.**

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by subsection 2 and subsection 3.

2. Access to child abuse information other than unfounded child abuse information is authorized only:

a. To a health practitioner who is examining, attending or treating a child whom the practitioner believes or has reason to believe has been the victim of abuse.

b. To employees of the department of human services having responsibility for the investigation of a child abuse report.

c. To a law enforcement officer having responsibility for the temporary emergency removal of a child from the child's parent or other legal guardian.

d. To a juvenile court or district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving child abuse, except that information obtained through the registry shall not be utilized in any aspect of any criminal prosecution.

e. To an authorized person or agency having responsibility for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or the registry deems access to child abuse information by such person or agency to be necessary.

- f. To a person conducting bona fide research on child abuse, if the details identifying any subject of a child abuse report are deleted.
- g. To a person who is the subject of any report as provided in section 235A.19.
- h. To registry or department personnel where necessary to the performance of their official duties.
- i. To a court hearing an appeal for correction or expungement of registry information as provided in section 235A.19.
- j. In an individual case, to the mandatory reporter who reported the child abuse.
- k. To a multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the diagnosis, assessment, and disposition of a child abuse case.
- 1. To a licensing authority for a facility providing care for a child named in a report, if the licensing authority is notified of a relationship between facility policy and the child abuse under section 232.71, subsection 4.

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraphs "b", "g", "h", and "j".

Sec. 17. Section 235A.18, subsection 2, Code 1985, is amended to read as follows:

2. Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of such abuse if the information cannot be determined by a preponderance of the evidence to be founded or unfounded. Child and child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged if the information is determined to be unfounded six months after the receipt of the initial report of abuse, as a result of any of the following:

- a. The investigation of a report of suspected child abuse by the department.
- b. A successful appeal as provided in section 235A.19.
- c. A court adjudication finding by a juvenile or district court.

3. However, if a correction of child abuse information is requested under section 235A.19 and the issue is not resolved at the end of the one-year or six-month period, the information shall be retained until the issue is resolved and if the child abuse information is not determined to be founded, the information shall be expunged at the appropriate time under subsection 2.

Sec. 18. Section 235A.19, subsections 2 and 3, Code 1985, are amended to read as follows:

2. Any A person who files may file with the registry department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 6, a written statement to the effect that child abuse information referring to such the person is in whole or in part erroneous, and requests may request a correction or expungement of that information, shall be notified within sixty days by the registry, in writing, of its decision or order regarding the correction or elimination or of the findings of the investigation report. All decisions and orders shall be accompanied by findings of fact, and the registry shall provide the opportunity for a fair hearing when it initially determines that the information should not be corrected or expunged as requested. The department shall provide the person with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

3. The ~~registry's decision or order~~ resulting from the hearing may be appealed to the district court of Polk county by the person requesting the correction ~~or expungement~~ or to the district court of the district in which ~~such~~ the person resides. Immediately upon ~~such~~ appeal the court shall order the ~~registry department~~ to file with the court a certified copy of the child abuse information. Appeal shall be taken in accordance with the provisions of the Iowa administrative procedure Act chapter 17A.

Sec. 19. Section 237A.4, Code 1985, is amended to read as follows:

**237A.4 INSPECTION AND EVALUATION.**

The ~~department shall make periodic inspections of licensed centers to insure compliance with licensing requirements provided in this chapter, and the local boards of health shall may make periodic inspections of licensed centers to insure compliance with health-related licensing requirements provided in this chapter. In those instances where no local board of health exists then the director may make periodic inspections of licensed centers as necessary to carry out the provisions of this chapter.~~ The director may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The director shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The director or a designee may periodically visit registered family day care homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules ~~promulgated~~ adopted under section 237A.12. Evaluation of family day care homes under this section may include consultative services provided pursuant to section 237A.6.

Sec. 20. Section 237A.12, unnumbered paragraph 3, Code 1985, is amended to read as follows:

Rules relating to fire safety ~~and sanitation shall be promulgated~~ adopted under this chapter by the state fire marshal ~~and the commissioner of public health respectively, in consultation with the department, and all.~~ Rules relating to sanitation shall be adopted by the department in consultation with the commissioner of public health. All rules shall be developed in consultation with the state day care advisory committee. The state fire marshal shall inspect the facilities.

Sec. 21. Section 238.33, article II, paragraph d, Code 1985, is amended to read as follows:

d. "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution, but not in an institution caring for the mentally ill, mentally defective, or epileptic, in an institution primarily educational in character, or in a hospital or other medical facility.

Sec. 22. Section 238.33, article III, paragraph a, Code 1985, is amended to read as follows:

a. ~~No A sending state agency shall not send, bring, or cause to be sent or brought into any other party state any a child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply complies with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein in the receiving state.~~

Sec. 23. Section 238.33, article VIII, paragraph a, Code 1985, is amended to read as follows:

a. The sending or bringing of a child into a receiving state by the child's parent, relative stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

Sec. 24. NEW SECTION. 242.16 STANDARDS — MULTIDISCIPLINARY TEAM REVIEW — ADVISORY COMMITTEE.

1. The department of human services shall adopt rules pursuant to chapter 17A establishing standards for services provided by the state training school, which shall address:

- a. The number, qualifications, and character of staff necessary to assure the health, safety, and welfare of children committed to the state training school.
- b. Programs for education and in-service training of staff.
- c. Policies for intake, assessment, admission, and discharge of children committed to the state training school.
- d. Policies for involvement of the parents of children committed to the state training school.
- e. The adequacy of programs available to children committed to the state training school, including activity programs, social services, behavior management procedures, and educational programs.
- f. Health, safety, and medical care policies.

2. The department shall establish an advisory committee for the state training school consisting of fifteen persons representing the local community, the juvenile court, providers of juvenile services, state agencies concerned with juvenile services, and persons with expertise in the treatment of youth. No more than five members of the advisory committee shall be state employees. The advisory committee shall meet at least three times annually, and shall review and make recommendations to the department regarding the programming and policies of the state training school.

**Sec. 25. NEW SECTION. 244.15 STANDARDS – MULTIDISCIPLINARY TEAM REVIEW – ADVISORY COMMITTEE.**

1. The department of human services shall adopt rules pursuant to chapter 17A establishing standards for services provided by the Iowa juvenile home, which shall address:

- a. The number, qualifications, and character of staff necessary to assure the health, safety, and welfare of children committed to the home.
- b. Programs for education and in-service training of staff.
- c. Policies for intake, assessment, admission, and discharge of children committed to the home.
- d. Policies for involvement of the parents of children committed to the home.
- e. The adequacy of programs available to children committed to the home, including activity programs, social services, behavior management procedures, and educational programs.
- f. Health, safety, and medical care policies.

2. The department shall establish an advisory committee for the home consisting of fifteen persons representing the local community, the juvenile court, providers of juvenile services, state agencies concerned with juvenile services, and persons with expertise in the treatment of youth. No more than five members of the advisory committee shall be state employees. The advisory committee shall meet at least three times annually, and shall review and make recommendations to the department regarding the programming and policies of the home.

**Sec. 26. NEW SECTION. 279.49 CHILD DAY CARE PROGRAMS.**

The board of directors of a school corporation may operate or contract for the operation of a program to provide child day care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both. The person employed to be responsible for coordinating a program operated by a board shall be an appropriately certificated teacher under chapter 260 or the program operated by contract with the board shall be licensed as a child care center under chapter 237A. The board shall require the employment of adequate personnel for a program to meet the personnel standards adopted by the department of human services pursuant to section 237A.12, subsection 1.



The board shall establish a fee for the cost of participation in a program. The parent or guardian of a child participating in a program is responsible for payment of the fee and for transportation of the child. The fee shall cover staffing costs and other necessary expenses as deemed appropriate by the board.

**Sec. 27. NEW SECTION. 280.16 PROCEDURES FOR HANDLING CHILD ABUSE REPORTS.**

The board of directors of a public school and the authorities in control of a nonpublic school shall prescribe procedures, in accordance with the guidelines contained in the model policy developed by the department of public instruction in consultation with the department of human services, and adopted by the department of public instruction pursuant to chapter 17A, for the handling of reports of child abuse, as defined in section 232.68, subsection 2, paragraph "a", "b", or "d", alleged to have been committed by an employee or agent of the public or non-public school.

**Sec. 28. Section 321B.30, Code 1985, is amended to read as follows:**

**321B.30 CIVIL PENALTY – VICTIM REPARATION FUND.**

When the department revokes a person's license or operating privilege under this chapter, the department shall assess the person a civil penalty of one hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in a separate fund dedicated to and used for the purposes of chapter 912, and for the operation of a missing person clearinghouse and domestic abuse registry by the department of public safety. A temporary restricted license shall not be issued or a license or privilege to drive reinstated until the civil penalty has been paid.

**Sec. 29. NEW SECTION. 694.10 MISSING PERSON INFORMATION CLEARINGHOUSE.**

1. As used in this section:

a. "Missing person" means a missing person as defined in 694.1 whose temporary or permanent residence is in Iowa, or is believed to be in Iowa, whose location has not been determined, and who has been reported as missing to a law enforcement agency.

b. "Missing person report" is a report prepared on a form designed by the department of public safety for use by private citizens and law enforcement agencies to report missing person information to the missing person information clearinghouse.

2. The department of public safety shall establish a statewide missing person information clearinghouse. In connection with the clearinghouse, the department shall:

a. Collect, process, maintain, and disseminate information concerning missing persons in Iowa.

b. Develop training programs for local law enforcement personnel concerning appropriate procedures to report missing persons to the clearinghouse and to comply with legal procedures relating to missing person cases.

c. Provide specialized training to law enforcement officers, in conjunction with the law enforcement academy, to enable the officers to more efficiently handle the tracking of missing persons and unidentified bodies on the local level.

d. Develop training programs to assist parents in avoiding child kidnapping.

e. Cooperate with other states and the national crime information center in efforts to locate missing persons.

f. Maintain a toll-free telephone line, available twenty-four hours a day, seven days a week, to receive and disseminate information related to missing persons.

g. Distribute monthly bulletins to all local law enforcement agencies and to media outlets which request missing person information, containing the names, photos, and descriptions of missing persons, information related to the events surrounding the disappearance of the missing persons, the law enforcement agency or person to contact if missing persons are located or if other relevant information is discovered relating to missing persons, and the names of persons reported missing whose locations have been determined and confirmed.

h. Produce, update at least weekly, and distribute public service announcements to media outlets which request missing person information, containing the same or similar information as contained in the monthly bulletins.

i. Encourage and seek both financial and in-kind support from private individuals and organizations in the production and distribution of clearinghouse bulletins and public service announcements under paragraphs "g" and "h".

j. Maintain a registry of approved prevention and education materials and programs regarding missing and runaway children.

k. Coordinate public and private programs for missing and runaway children.

3. A law enforcement agency shall submit all missing person reports compiled pursuant to section 694.3 and updated information relating to the reports to the clearinghouse.

4. Subsequent to the filing of a complaint of a missing person with a law enforcement agency pursuant to section 694.2, the person filing the complaint may submit information regarding the missing person to the clearinghouse. If the person reported missing is an unemancipated minor, any person may submit information regarding the missing unemancipated minor to the clearinghouse.

5. A person who has filed a missing person complaint with a law enforcement agency shall immediately notify that law enforcement agency when the location of the missing person has been determined.

6. After the location of a person reported missing to the clearinghouse has been determined and confirmed, the clearinghouse shall only release information described in subsection 2, paragraphs "g" and "h" concerning the located person. After the location of a missing person has been determined and confirmed, other information concerning the history of the missing person case shall be disclosed only to law enforcement officers of this state and other jurisdictions when necessary for the discharge of their official duties and to the juvenile court in the county of a formerly missing child's residence. All information relating to a missing person in the clearinghouse shall be purged when the person's location has been determined and confirmed, except that information relating to a missing child shall be purged when the child reaches eighteen years of age and the child's location has been determined and confirmed.

Sec. 30. The Code editor shall transfer sections 238.33 through 238.41 to chapter 232 as a new division before or after division VII.

Sec. 31. The amendments to sections 232.71, subsection 6 and 235A.19, subsection 2 in this Act apply to information entered in the central registry for child abuse information on or after the effective date of this Act.

Sec. 32. EFFECTIVE DATE. Section 27 of this Act takes effect January 1, 1987.

Sec. 33. PROSPECTIVE REPEAL. Sections 242.16 and 244.15 contained in sections 24 and 25 of this Act are repealed July 1, 1988. The advisory committees established in those sections shall report to the general assembly by January 1, 1988 their recommendations relating to the prospective repeal of sections 242.16 and 244.15.

Sec. 34. The Iowa merit employment department shall conduct a study to develop a model state employment policy for state employees who are parents of young children to be implemented no later than July 1, 1986. The study shall include an assessment of the costs and benefits of the implementation of the model state employment policy. The study shall draw on the experiences of other governmental units and private entities and shall review individual state employment policy components including but not limited to flexible working hours, use of sick time for necessary child care, on-site child day care, flexible benefit options, and use of employer and employee economic incentives for the provision of child day care. In developing

a realistic model state employment policy, the study shall attempt to combine individual components into an innovative benefit package for state employees who are parents of young children. The study shall include a recommendation concerning the costs and benefits of on-site child day care located at the state capitol complex in Des Moines and other appropriate sites around the state. The Iowa merit employment department shall complete the study and report its findings and recommendations to the legislative council and the general assembly by December 1, 1985.

**Sec. 35. MODEL POLICY FOR THE HANDLING OF CHILD ABUSE REPORTS.**

The department of public instruction, in consultation with the department of human services, shall develop a model policy for public and nonpublic schools, as defined in section 280.2, for the handling of reports of child abuse, as defined in section 232.68, subsection 2, paragraph "a", "b", or "d", alleged to have been committed by employees or agents of public or nonpublic schools. The departments shall jointly report the model policy to the general assembly by January 1, 1986. The department of public instruction shall adopt rules pursuant to chapter 17A to implement the model policy, and the rules shall be effective by January 1, 1987. The department of public instruction shall distribute the model policy to the public and nonpublic schools.

Approved May 23, 1985

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**CHAPTER 174**

**PROTECTION OF VICTIMS AND WITNESSES**

*H.F. 462*

**AN ACT** relating to the protection of victims and witnesses in judicial proceedings, and providing penalties.

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

Section 1. Section 235A.15, subsection 2, Code 1985, is amended by adding the following new paragraph:

**NEW PARAGRAPH. 1.** To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3, 4, and 5.

**Sec. 2. NEW SECTION. 802.2 SEXUAL ABUSE OF CHILD.**

An information or indictment for sexual abuse in the first, second or third degree committed on or with a child under the age of ten years shall be found within four years after its commission.

**Sec. 3. Section 802.3, Code 1985, is amended to read as follows:**

**802.3 FELONY – AGGRAVATED OR SERIOUS MISDEMEANOR.**

In all cases, except those enumerated in ~~section~~ sections 802.1 and 802.2, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

Sec. 4. NEW SECTION. 910A.1 TITLE.

This chapter shall be known and may be cited as the "Victim and Witness Protection Act."

Sec. 5. NEW SECTION. 910A.2 PROTECTION OF CHILD VICTIM'S PRIVACY.

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 702.5, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court of jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record. Instead, a nondescriptive designation shall appear on all public records. The non-public records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to an accused or accused's counsel; however, the use or release of this information by the accused or accused's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

Sec. 6. NEW SECTION. 910A.3 RECORDED EVIDENCE.

1. A court may, upon its own motion or upon motion of any party, order that the testimony of a child, as defined in section 702.5, be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court. Only the judge, parties, counsel, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's testimony.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's testimony, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the testimony and shall inform the child that the party can see and hear the child during testimony.

2. The court may upon motion of a party order that the testimony of a child, as defined in section 702.5, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b).

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under Iowa rules of evidence 803(24) or 804(5).

Sec. 7. NEW SECTION. 910A.4 GUARDIAN AD LITEM FOR PROSECUTING WITNESSES.

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem may but need not be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian

ad litem. However, a person who is also a prosecuting witness in the same proceeding shall not be designated guardian ad litem. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses.

Sec. 8. NEW SECTION. 910A.5 CHILD VICTIM SERVICES.

1. "Victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians. Such a professional shall not deny initial services to a victim due to the fact that the victim is personally unable to pay for the services at the time the services are provided.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

Sec. 9. Section 912.4, subsection 1, Code 1985, is amended to read as follows:

1. To claim a reparation under the crime victim reparation program, a person shall apply in writing on a form prescribed by the commissioner and file the application with the commissioner within one hundred eighty days after the date of the crime, or of the discovery of the crime, or within one hundred twenty days after the date of death of the victim.

Sec. 10. Section 912.4, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Notwithstanding subsection 2, a victim under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for reparation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 6, and was reported to an employee of the department of human services and the employee verifies the report to the commissioner.

NEW SUBSECTION. 4. When immediate or short-term medical services or mental health services are provided to a victim under section 910A.5, the department of human services shall file the claim for reparation as provided in subsection 3 for the victim and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply.

NEW SUBSECTION. 5. When immediate or short-term medical services to a victim are provided pursuant to section 910A.5 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation, unless the department of human services is required to file the claim under this section, and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

Sec. 11. NEW SECTION. 912.13 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 910A.5 and section 912.4, subsections 3, 4, and 5.

Sec. 12. Rule of criminal procedure 3, subsection 4, Iowa court rules, second edition, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH.** k. A person under the age of ten years shall not be required to personally appear before a grand jury to testify against another person related to the person or another person who resided with the person at the time of the action which is the subject of the grand jury's investigation, unless there exists a special order of the court finding that the interests of justice require the person's appearance and that the person will not be disproportionately traumatized by the appearance.

Sec. 13. Rule of criminal procedure 8.1, Iowa court rules, second edition, is amended by adding the following new numbered subsection:

**NEW NUMBERED SUBSECTION.** 3. PRIORITY ASSIGNMENT. Prosecutions for violations of sections 709.2, 709.3, 709.4 and 726.2 shall, as practicable, be given priority on a court's criminal docket.

Sec. 14. Rule of criminal procedure 12, section 2, Iowa court rules, second edition, is amended to read as follows:

2. SPECIAL CIRCUMSTANCES.

a. Whenever the interests of justice and the special circumstances of a case make necessary the taking of the testimony of a prospective witness not included in subsection 1 or 3 of this rule;\* for use at trial, the court may upon motion of a party and notice to the other parties order that the testimony of the witness be taken by deposition and that any designated book, paper, document, record, recording, or other material, not privileged, be produced at the same time and place. For purposes of this subsection, special circumstances shall be deemed to exist and the court shall order that depositions be taken only upon a showing of necessity arising from either of the following:

a. (1) The information sought by way of deposition cannot adequately be obtained by a bill of particulars or voluntary statements.

b. (2) Other just cause necessitating the taking of the deposition.

b. The court may upon motion of a party and notice to the other parties order that the testimony of a victim or witness who is a child, as defined in section 702.5, Code 1985, be taken by deposition for use at trial. Only the judge, parties, counsel, persons necessary to record the deposition, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's deposition.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's deposition, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the deposition and shall inform the child that the party can see and hear the child during deposition.

Sec. 15. Rule of criminal procedure 20, subsection 3, Iowa court rules, second edition, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Corroboration of the testimony of victims shall not be required.

Sec. 16. Rule of evidence 601, Iowa court rules, second edition, is amended by striking the rule and inserting in lieu thereof the following:

**RULE 601. GENERAL RULES OF COMPETENCY.**

A person of sufficient capacity to understand the obligation of an oath or affirmation is competent to be a witness except as otherwise provided by rule or statute.

However, a child, as defined in section 702.5, Code 1985, is presumed to be competent. If the child's competency is questioned the court shall determine whether the child is mentally

\*According to enrolled Act

capable of understanding the nature of the questions put to the child, whether the child is able to formulate intelligent answers and communicate impressions and recollections regarding the incident about which the child is to testify, and whether the child can understand the responsibility to tell the truth. In making these determinations, the court may do any or all of the following:

1. In consultation with counsels, conduct a voir dire of the child outside the courtroom. If the judge elects to conduct a voir dire of the child outside the courtroom, the judge shall allow only the court reporter, counsels, parties and those persons necessary for the welfare of the child to be present during voir dire. The judge may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during voir dire, but does not allow the child to see or hear the party. However, if a party is so confined, the judge shall take measures to insure that the party and counsel can confer during the voir dire.

2. Review recorded or nonrecorded evidence.

3. Receive expert testimony.

4. Take any other action permitted by Iowa rules of evidence 611 or 104.

Approved May 23, 1985

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**CHAPTER 175**  
**DOMESTIC ABUSE**  
*H.F. 549*

**AN ACT** relating to domestic abuse counseling; to the commencement of a domestic abuse action; to coordination of certain domestic abuse programs by the department of human services; to compilation and dissemination of domestic abuse information by the department of public safety; to warrantless arrests of persons committing domestic abuse, and providing penalties; and to the establishment of a court fee for the entering of a final decree of dissolution of marriage.

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

Section 1. Section 22.7, subsection 2, Code 1985, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a victim of sexual assault or domestic violence and the victim's sexual assault or domestic violence counselor are not subject to disclosure except as provided in section 236.17.

Sec. 2. Section 236.2, Code 1985, is amended by adding the following new subsections:

**NEW SUBSECTION.** 3. "Emergency shelter services" include, but are not limited to, secure crisis shelters or housing for victims of domestic abuse.

**NEW SUBSECTION. 4.** "Support services" include, but are not limited to, legal services, counseling services, transportation services, child care services, and advocacy services.

**NEW SUBSECTION. 5.** "Department" means the department of human services.

**NEW SUBSECTION. 6.** "Commissioner" means the commissioner of human services.

**Sec. 3.** Section 236.3, unnumbered paragraph 2, Code 1985, is amended to read as follows:

If the plaintiff files an affidavit stating that the plaintiff does not have sufficient funds available to pay the cost of filing and service, the petition shall be filed and service shall be made without payment of costs. If a petition is filed and service is made without payment of costs, the court shall determine at the hearing if the ~~plaintiff is indigent~~ payment of costs would prejudice the person's financial ability to provide economic necessities for the plaintiff or the plaintiff's dependents. If the court finds that the ~~plaintiff is not indigent~~ payment of costs would not prejudice the person's financial ability to provide economic necessities for the plaintiff or the plaintiff's dependents, the court may order the plaintiff to pay the costs of filing and service. However, in making the determinations, the court shall not consider funds no longer available to the plaintiff as a result of the commencement of the action.

**Sec. 4.** Section 236.9, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**236.9 DOMESTIC ABUSE INFORMATION.**

Criminal justice agencies, as defined in section 692.1, shall collect and maintain information on incidents involving domestic abuse and shall provide the information to the department of public safety in the manner prescribed by the department of public safety. The department of public safety shall receive and maintain the information, including information on the personal characteristics and identities of perpetrators and victims of domestic abuse. The department of public safety shall maintain the confidentiality of information which individually identifies perpetrators or victims of domestic abuse, except that the department of public safety may disseminate the identifying information to a criminal justice agency if necessary for the performance of the official duties of the agency.

The department of public safety may compile statistics and issue reports on domestic abuse in Iowa, provided individual identifying details of the domestic abuse are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of human services in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of domestic abuse to persons conducting bona fide research, including but not limited to personnel of the department of human services.

**Sec. 5.** Section 236.12, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. d.** Arrest the abusing party pursuant to section 804.7, subsection 5.

**Sec. 6. NEW SECTION. 236.13 APPLICATION FOR DESIGNATION AND FUNDING AS A PROVIDER OF SERVICES FOR VICTIMS OF DOMESTIC ABUSE.**

Upon receipt of state or federal funding designated for victims of domestic abuse by the department, a public or private nonprofit organization may apply to the commissioner for designation and funding as a provider of emergency shelter services and support services to victims of domestic abuse. The application shall be submitted on a form prescribed by the department and shall include, but not be limited to, information regarding services to be provided, budget, and security measures.



Sec. 7. NEW SECTION. 236.14 DEPARTMENT POWERS AND DUTIES.

1. The commissioner shall:
  - a. Designate and award grants for existing and pilot programs pursuant to this chapter to provide emergency shelter services and support services to victims of domestic abuse.
  - b. Design and implement a uniform method of collecting data from domestic abuse organizations funded under this chapter.
2. The department shall consult and cooperate with all public and private agencies which may provide services to victims of domestic abuse, including but not limited to, legal services, social services, prospective employment opportunities, and unemployment benefits.
3. The commissioner may accept, use, and dispose of contributions of money, services, and property made available by an agency or department of the state or federal government, or a private agency or individual.

Sec. 8. NEW SECTION. 236.15 ADVISORY BOARD — MEMBERSHIP.

1. The domestic abuse advisory board is created. The board consists of five members appointed by the governor. Appointments shall be made of persons with knowledge in the fields of health, law enforcement, social services, domestic abuse, and victim services. Members of the board shall serve at the pleasure of the governor.

Members of the board must be electors of the state of Iowa. No more than three members shall belong to the same gender or the same political party. Three members are a quorum. Members shall select a chairperson and other officers as necessary.

2. The board shall meet at the call of the governor, the board chairperson, or three board members. The members shall be paid their actual and necessary expenses.

Sec. 9. NEW SECTION. 236.16 DUTIES OF THE BOARD.

The domestic abuse advisory board shall:

1. Advise the commissioner in the administration and coordination of programs awarded grants under section 236.14.
2. Review and comment on applications received by the commissioner for designation and awarding of grants under section 236.14.
3. Advise the commissioner regarding the adoption of rules relating to domestic abuse programs.

Sec. 10. NEW SECTION. 236.17 VICTIM COUNSELOR PRIVILEGE.

1. As used in this section:
  - a. "Victim" means a person who consults a victim counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault or domestic violence.
  - b. "Victim counselor" means a person who is engaged in a sexual assault center or domestic violence center, is certified as a counselor by the sexual assault or domestic violence center, and is under the control of a direct services supervisor of a sexual assault or domestic violence center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of sexual assault or domestic violence. To qualify as a "victim counselor" under this section, the person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa coalition against sexual abuse, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to sexual assault and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of sexual assault or domestic violence.

c. "Sexual assault center" means any office, institution, agency, or crisis center offering assistance to victims of sexual assault and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

d. "Sexual assault" means any act of sexual abuse or other unlawful sexual conduct under chapter 709, 726 or 728.

e. "Domestic violence center" means any office, institution, shelter, host home, agency or crisis center offering assistance to victims of domestic violence through crisis intervention, referral to or provision of emergency shelter, and assistance and advocacy regarding medical and legal proceedings.

f. "Domestic violence" means any act of domestic abuse, as defined in section 236.2, subsection 1, and includes those acts commonly referred to as spouse abuse.

g. "Confidential communication" means information transmitted between a victim of sexual assault or domestic violence and a victim counselor in the course of the counseling relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than any who is present to further the interests of the victim in the consultation or to whom disclosure is reasonably necessary for the transmission of the information or for accomplishment of the purposes for which the counselor is consulted, and includes all information received and any advice, report, or working paper given or prepared by the counselor in the course of the relationship with the victim.

2. A victim counselor shall not be examined or required to give evidence in any civil or criminal proceeding as to any confidential communication made by a victim to the counselor, nor shall a clerk, secretary, stenographer, or any other employee who types or otherwise prepares or manages the confidential reports or working papers of a sexual assault or domestic violence counselor be required to produce evidence of any such confidential communication, unless the victim waives this privilege in writing or disclosure of the information is compelled by a court pursuant to subsection 7. Under no circumstances shall the location of a domestic violence center or the identity of the victim counselor be disclosed in any civil or criminal proceeding.

3. If a victim is deceased or has been declared to be incompetent, this privilege specified in subsection 2 may be waived by the guardian of the victim or by the executor or administrator of the victim's estate.

4. A minor may waive the privilege under this section unless, in the opinion of the court, the minor is incapable of knowingly and intelligently waiving the privilege, in which case the parent or guardian of the minor may waive the privilege on the minor's behalf if the parent or guardian is not the defendant and does not have such a relationship with the defendant that the parent or guardian has an interest in the outcome of the proceeding being favorable to the defendant.

5. The privilege under this section does not apply in matters of proof concerning the chain of custody of evidence, in matters of proof concerning the physical appearance of the victim at the time of the injury or the counselor's first contact with the victim after the injury, or where the counselor has reason to believe that the victim has given perjured testimony and the defendant or the state has made an offer of proof that perjury may have been committed.

6. The failure of a counselor to testify due to this section shall not give rise to an inference unfavorable to the cause of the state or the cause of the defendant.

7. Upon the motion of a party, accompanied by a written offer of proof, a court may compel disclosure of certain information if the court determines that all of the following conditions are met:

a. The information sought is relevant and material evidence of the facts and circumstances involved in an alleged act of sexual assault or domestic violence which is the subject of a criminal proceeding.

b. The probative value of the information outweighs the harmful effect, if any, of disclosure on the victim, the counseling relationship, and the treatment services.

c. The information cannot be obtained by reasonable means from any other source.

8. In ruling on a motion under subsection 7, the court, or a different judge, if the motion was filed in a criminal proceeding to be tried to the court, shall adhere to the following procedure:

a. The court may require the counselor from whom disclosure is sought or the victim claiming the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the victim and any other persons the victim is willing to have present.

b. If the court determines that the information is privileged and not subject to compelled disclosure, the information shall not be disclosed by any person without the consent of the victim.

c. If the court determines that certain information may be subject to disclosure, as provided in subsection 7, the court shall so inform the party seeking the information and shall order a subsequent hearing out of the presence of the jury, if any, at which the parties shall be allowed to examine the counselor regarding the information which the court has determined may be subject to disclosure. The court may accept other evidence at that time.

d. At the conclusion of a hearing under paragraph "c", the court shall determine which information, if any, shall be disclosed and may enter an order describing the evidence which may be introduced by the moving party and prescribing the line of questioning which may be permitted. The moving party may then offer evidence pursuant to the court order. However, no victim counselor is subject to exclusion under Iowa rule of evidence 615.

9. This section does not relate to the admission of evidence of the victim's past sexual behavior which is strictly subject to Iowa rule of evidence 412.

Sec. 11. Section 602.8105, subsection 1, Code 1985, is amended by adding the following new paragraph following paragraph k and renumbering the following paragraphs:

NEW PARAGRAPH. 1. For entering a final decree of dissolution of marriage, fifteen dollars. The fees shall be deposited in the general fund of the state. It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

Sec. 12. Section 804.7, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If the peace officer has reasonable grounds for believing that domestic abuse, as defined in section 236.2, has occurred and has reasonable grounds for believing that the person to be arrested has committed it.

Approved May 23, 1985

**CHAPTER 176**  
**WATER WELL CONSTRUCTION**

*H.F. 649*

**AN ACT** relating to water wells by providing for regulation of water wells and the registration of water well contractors.

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

Section 1. Section 455B.171, Code 1985, is amended by adding the following new subsections:

**NEW SUBSECTION. 24.** "Abandoned well" means a water well which is no longer in use or which is in such a state of disrepair that continued use for the purpose of accessing ground water is unsafe or impracticable.

**NEW SUBSECTION. 25.** "Contractor" means a person engaged in the business of well construction or reconstruction.

**NEW SUBSECTION. 26.** "Reconstruction" means replacement or removal of all or a portion of the casing of a water well.

**NEW SUBSECTION. 27.** "Water well" means an excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted or otherwise constructed for accessing ground water. "Water well" does not include an open ditch or drain tiles.

**NEW SUBSECTION. 28.** "Construction" means the physical act or process of making a water well including, but not limited to, siting, excavation, construction and the installation of equipment and materials necessary to maintain and operate the well.

Sec. 2. Section 455B.172, Code 1985, is amended by adding the following new subsections:

**NEW SUBSECTION\*. 3. a.** The department is the state agency to regulate the construction, reconstruction and abandonment of all of the following water wells:

(1) Those used as part of a public water supply system as defined in section 455B.171.

(2) Those used for the withdrawal of water for which a permit is required pursuant to 455B.268, subsection 1.

(3) Those used for the purpose of monitoring groundwater quantity and quality required or installed pursuant to directions or regulations of the department.

b. A local board of health is the agency to regulate the construction, reconstruction and abandonment of water wells not otherwise regulated by the department. The local board of health shall not adopt standards relative to the construction, reconstruction and abandonment of wells less stringent than those adopted by the department.

**NEW SUBSECTION. 4.** The department is the state agency to regulate the registration of water well contractors pursuant to section 455B.186A.

**NEW SUBSECTION. 5.** Pursuant to chapter 28E, the department may delegate its authority for regulation of the construction, reconstruction and abandonment of water wells specified in subsection 3 or the registration of water well contractors specified in subsection 4 to boards of health or other agencies which have adequate authority and ability to administer and enforce the requirements established by law or rule.

\*According to enrolled Act

Sec. 3. Section 455B.173, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Adopt, modify or repeal rules relating to the construction and reconstruction of water wells, the proper abandonment of wells, and the registration of water well contractors. The rules shall include those necessary to protect the public health and welfare, and to protect the waters of the state. The rules may include, but are not limited to, establishing fees for registration of water well contractors, requiring the submission of well driller's logs, formation samples or well cuttings, water samples, information on test pumping and requiring inspections. Fees shall be based upon the reasonable cost of conducting the water well contractor registration program.

Sec. 4. NEW SECTION. 455B.186A WATER WELL CONSTRUCTION.

A contractor shall not engage in well construction or reconstruction without first registering as required in department rules. Water wells shall not be constructed, reconstructed, or abandoned by a person except as provided in this part or rules adopted pursuant to this part. Within thirty days after construction or reconstruction of a well, a contractor shall provide well information required by rule to the department and the Iowa geological survey.

Sec. 5. NEW SECTION. 455B.186B PROVISION FOR EMERGENCY REPLACEMENT OF WATER WELLS.

Rules adopted to implement section 455B.172, subsection 3, paragraph "b"; 455B.173, subsection 9; and section 455B.186A shall specifically provide for the immediate replacement or reconstruction of water wells in response to the sudden and unforeseen loss or serious impairment of a well for its intended use. These provisions shall include the granting of emergency authorizations and registration of well contractors pursuant to section 455B.186A and may include the granting of variances and exemptions from technical standards as appropriate.

Approved May 23, 1985

**CHAPTER 177**  
**STATE'S LIABILITY FOR CERTAIN INJURIES**

*H.F. 130*

**AN ACT** relating to community service by providing that the state assumes liability for injuries to persons performing unpaid community service.

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

Section 1. Section 85.59, unnumbered paragraphs 2, 3, and 4, Code 1985, are amended to read as follows:

For purposes of this section, ~~the term "inmate" excludes~~ includes a person who is performing unpaid community service under ~~section~~ sections 907.13 and 910.2 or a work assignment of value to the state or to the public under chapter 232.

If an inmate is permanently incapacitated by injury in the performance of the inmate's work in connection with the maintenance of the institution or in an industry maintained therein ~~or~~, while on detail to perform services on a public works project, or is permanently or temporarily incapacitated in connection with the performance of unpaid community service under sections 907.13 and 910.2 or a work assignment of value to the state or to the public under chapter 232, that inmate shall be awarded only ~~such the~~ benefits as are provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability ~~shall be~~ is equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa department of job service under ~~the provisions of~~ section 96.3 and in effect at the time of the injury.

Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge. However, if the inmate is awarded benefits for an injury incurred in connection with the performance of unpaid community service under sections 907.13 and 910.2 or a work assignment of value to the state or to the public under chapter 232, weekly compensation benefits under this section shall be determined and paid as in other worker's compensation cases.

Sec. 2. Section 232.13, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The state of Iowa is exclusively liable for and shall pay any compensation becoming due a person under section 85.59.

Approved May 23, 1985

**CHAPTER 178**  
**COLLECTION OF SUPPORT OBLIGATIONS**  
*H.F. 495*

**AN ACT** for the collection of support obligations relating to identifying information in petitions for dissolution of marriage and support orders, the payment and distribution of support payments to and by the clerk of the district court, the modification of support orders, and the recording of income tax refund or rebate payments by the clerk.

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

Section 1. Section 252C.7, Code 1985, is amended to read as follows:  
**252C.7 EMPLOYERS — ASSIGNMENTS OF EARNINGS.**

In addition to other remedies provided by law for the enforcement of a support obligation, the employer of a responsible person owing a support debt shall honor a duly executed assignment of current or future earnings presented by the director to the employer as a plan to satisfy or retire the support debt. The assignment is effective until released in writing by the director. The employer is entitled to receive from the debtor a fee of ~~one dollar~~ two dollars for each remittance under the assignment. Payment of moneys pursuant to the assignment of earnings is a full acquittance under a contract of employment. The director is released from liability for improper receipt of moneys under an assignment of earnings upon the return of the moneys.

Sec. 2. Section 252D.1, Code 1985, is amended by adding the following new unnumbered paragraph after subsection 3:

**NEW UNNUMBERED PARAGRAPH.** As used in this chapter, unless the context otherwise requires, "support" or "support payments" means any amount which the court may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree, and may include child support, maintenance, and, if contained in a child support order, spousal support, and any other term used to describe these obligations. These obligations may include support for a child who is between the ages of eighteen and twenty-two years and who is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs, or is, in good faith, a full-time student in a college, university, or area school, or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; and may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

Sec. 3. Section 252D.4, subsection 1, Code 1985, is amended to read as follows:

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.1, subsection 2 shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than ~~one dollar~~ two dollars from each payment from the employee's wages as a reimbursement for the payor's

costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

Sec. 4. Section 598.5, subsections 1 and 3, Code 1985, are amended to read as follows:

1. State the name, birth date, address and county of residence of the petitioner and the name and address of the petitioner's attorney.

3. State the name, birth date, address and county of residence, if known, of the respondent.

Sec. 5. Section 598.11, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be entered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. An order entered pursuant to this section shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 6. Section 598.21, subsection 7, Code 1985, is amended to read as follows:

7. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 7. Section 598.21, subsection 8, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The court may subsequently modify orders made under this section when there is a substantial change in circumstances. The court contemplating a change in child support because of alleged change in circumstances shall consider each parent's earning capacity, economic circumstances and cost of living. In determining whether there is a substantial change in circumstances, the court shall consider the following:

- a. Changes in the employment, earning capacity, income or resources of a party.
- b. Receipt by a party of an inheritance, pension or other gift.
- c. Changes in the medical expenses of a party.
- d. Changes in the number or needs of dependents of a party.
- e. Changes in the physical or emotional health of a party.
- f. Changes in the residence of a party.
- g. Remarriage of a party.
- h. Possible support of a party by another person.
- i. Changes in the physical, emotional or educational needs of a child whose support is governed by the order.

j. Contempt by a party of existing orders of court.

k. Other factors the court determines to be relevant in an individual case. A modification of a support order entered under chapter 252A, chapter 675, or this chapter between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 239.3, the department shall be considered a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.



Sec. 8. Section 598.22, unnumbered paragraphs 1, 2, and 3, Code 1985, are amended to read as follows:

All orders or judgments ~~providing~~ entered under chapter 252A, chapter 675, or this chapter which provide for temporary or permanent support payments shall direct the payment of such sums to the clerk of the district court for the use of the person for whom the payments have been awarded. Payments to persons other than the clerk of the district court do not satisfy the support obligations created by such orders or judgments, except as provided for trusts in section 252D.1, 598.22, or 598.23 or for tax refunds or rebates in section 602.8102, subsection 47.

Upon a finding of previous failure to pay child support, the court may order the person obligated for permanent child support to make an assignment of periodic earnings, or trust income to the clerk of court for the use of the person for whom the assignment is ordered. The assignment of earnings ordered by the court shall not exceed the amounts set forth in 15 U.S.C. s. ~~sec. 1673b(b)~~ (Supp. 1979 1982). The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon that person of notice that the assignment has been made. The payor shall withhold from the earnings, or trust income payable to the person obligated the amount specified in the assignment and shall transmit the payments to the clerk. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor shall transmit the payments to the alternate payee in accordance with the federal Act. The payor may deduct from each payment a sum not exceeding ~~one dollar two~~ dollars as a reimbursement for costs. An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

An order or judgment entered by the court for temporary or permanent support or for an assignment shall be filed with the ~~court~~ clerk. The orders ~~shall~~ have the same force and effect as judgments when entered in the judgment docket and lien index and ~~shall be a record~~ are records open to the public. The clerk shall disburse the payments received pursuant to the orders or judgments within ten working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in a record book kept by the clerk, which shall be open to the public. The clerk shall not enter any moneys paid in the record book if not paid directly to the clerk, except as provided for trusts in section 252D.1, 598.22, or 598.23 or for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 9. Section 598.23, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. Directs the defaulting party to assign, trust income or a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as ~~those~~ the payments to be made in the future. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, payments shall be made to the alternate payee in accordance with the federal Act. ~~Where~~ If the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. s. ~~sec. 1673b(b)~~ (Supp. 1979 1982) and the assignment order shall be binding upon the employer only for those amounts that represent child support and only upon receipt by the employer of a copy of the order, signed by the employee. For each payment deducted in compliance with ~~such request~~ the direction, the payor may deduct a sum not exceeding ~~one dollar two~~ dollars as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of the employer's liability to the payee as to the affected portion of the payee's wages, or trust income. ~~Any~~ An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

Sec. 10. Section 602.8102, subsection 47, Code 1985, is amended to read as follows:

47. Forward Record support payments made pursuant to an order entered under chapter 252A, 598, or 675, or under a comparable statute of a foreign jurisdiction and through setoff of a state or federal income tax refund or rebate, as if the payments were received and disbursed by the clerk; forward support payments received under section 252A.6 to the department of human services and furnish copies of orders and decrees awarding support to parties receiving welfare assistance as provided in section 252A.13.

Sec. 11. Section 602.8102, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. Accept a check, share draft, draft, or written order on a bank, savings and loan association, credit union, corporation, or person as payment of a support obligation which is payable to the clerk, in accordance with procedures established by the clerk to assure that such negotiable instruments will not be dishonored. The friend of court may perform the clerk's responsibilities under this subsection.

Sec. 12. Section 627.11, Code 1985, is amended to read as follows:

627.11 EXCEPTION UNDER DIVORCE DECREE FOR SPOUSAL SUPPORT.

Where If the party in whose favor the order, judgment, or decree, or judgment for the support of a spouse was rendered has not remarried, the personal earnings of the debtor shall are not be exempt from any an order, judgment, or decree for temporary or permanent alimony hereafter rendered in this state support, as defined in section 252D.1, of a spouse, nor from any an installment of any such an order, judgment, or decree heretofore rendered within this state which, by the provisions thereof, may hereafter become due for the support of a spouse.

Sec. 13. Section 627.12, Code 1985, is amended to read as follows:

627.12 EXCEPTION UNDER DECREE FOR CHILD SUPPORT OF MINORS.

The personal earnings of the debtor shall are not be exempt from any an order, judgment, or decree for the support, as defined in section 252D.1, of a minor child, or children hereafter rendered in this state nor any from an installment of any such an order, judgment, or decree heretofore rendered in this state which, by the provisions thereof, may hereafter become due for the support of a child.

Sec. 14. Section 642.21, subsection 1, Code 1985, is amended to read as follows:

1. The disposable earnings of an individual are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act, Title III, 15 U.S.C. secs. 1671-1677 (1982). The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except as provided in section chapter 252D and sections 598.22, 598.23, and 627.12, or when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year as determined from the answers taken by the sheriff or by the court pursuant to section 642.5, subsection 4. When the employee's earnings are reasonably expected to be more than twelve thousand dollars the maximum amount of those earnings which may be garnished during a calendar year for each creditor is as follows:

Sec. 15. NEW SECTION. 642.23 SUPPORT DISBURSEMENTS BY THE CLERK.

Notwithstanding the seventy-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within ten working days of deposit to the person entitled to the support payments.

Sec. 16. Section 252D.6, Code 1985, is repealed.

**CHAPTER 179**  
**USE OF JUVENILE RECORDS IN SENTENCING**  
*H.F. 688*

**AN ACT** relating to the use of juvenile records in the sentencing of a person for an offense other than a simple or serious misdemeanor.

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

Section 1. Section 232.55, subsection 2, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

2. Adjudication and disposition proceedings under this division are not admissible as evidence against a person in a subsequent proceeding in any other court before or after the person reaches majority except in a sentencing proceeding after conviction of the person for an offense other than a simple or serious misdemeanor. Adjudication and disposition proceedings may properly be included in a presentence investigation report prepared pursuant to chapter 901 and section 906.5.

However, the use of adjudication and disposition proceedings pursuant to this subsection shall be subject to the restrictions contained in section 232.150.

Approved May 23, 1985

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**CHAPTER 180**  
**ENDANGERING CHILDREN AND DEPENDENT ADULTS**  
*H.F. 700*

**AN ACT** relating to the endangering of certain persons and providing penalties.

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

Section 1. Section 235B.1, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. Depriving a dependent adult of medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment. However, this provision does not preclude a court from ordering that medical service be provided to the dependent adult if the dependent adult's health requires it.

Sec. 2. Section 702.11, Code 1985, is amended to read as follows:

**702.11 FORCIBLE FELONY.**

A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree.

Sec. 3. Section 726.6, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**726.6 CHILD ENDANGERMENT.**

1. A person who is the parent, guardian, or person having custody or control over a child or a mentally or physically handicapped minor under the age of eighteen, commits child endangerment when the person does any of the following:

a. Knowingly acts in a manner that creates a substantial risk to a child or minor's physical, mental or emotional health or safety.

b. By an intentional act or series of intentional acts, uses unreasonable force, torture or cruelty that results in physical injury, or that is intended to cause serious injury.

c. By an intentional act or series of intentional acts, evidences unreasonable force, torture or cruelty which causes substantial mental or emotional harm to a child or minor.

d. Willfully deprives a child or minor of necessary food, clothing, shelter, health care or supervision appropriate to the child or minor's age, when the person is reasonably able to make the necessary provisions and which deprivation substantially harms the child or minor's physical, mental or emotional health. For purposes of this paragraph, the failure to provide specific medical treatment shall not for that reason alone be considered willful deprivation of health care if the person can show that such treatment would conflict with the tenets and practice of a recognized religious denomination of which the person is an adherent or member. This exception does not in any manner restrict the right of an interested party to petition the court on behalf of the best interest of the child or minor.

e. Knowingly permits the continuing physical or sexual abuse of a child or minor. However, it is an affirmative defense to this subsection if the person had a reasonable apprehension that any action to stop the continuing abuse would result in substantial bodily harm to the person or the child or minor.

f. Abandons the child or minor to fend for the child or minor's self, knowing that the child or minor is unable to do so.

2. A person who commits child endangerment resulting in serious injury to a child or minor is guilty of a class "C" felony.

3. A person who commits child endangerment not resulting in serious injury to a child or minor is guilty of an aggravated misdemeanor.

Approved May 23, 1985

**CHAPTER 181**  
**CRIMES WITH A CHILD**  
*H.F. 139*

**AN ACT** relating to the crimes of indecent contact and lascivious acts with a child and providing a penalty.

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

Section 1. Section 709.8, subsection 2, Code 1985, is amended to read as follows:

2. Permit or cause a child to fondle or touch the person's genitals or pubes.

Sec. 2. Section 709.12, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. Solicit a child to engage in any act prohibited under section 709.8, subsections 1, 2, or 4.

Approved May 23, 1985

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**CHAPTER 182**  
**RETURN OF JUVENILES FROM ANOTHER STATE**  
*S.F. 218*

**AN ACT** relating to the return of juveniles alleged to be delinquent from another state under the interstate compact on juveniles.

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

Section 1. Section 232.139, Code 1985, is amended by adding the following new article:

**NEW ARTICLE. ARTICLE XV — RENDITION AMENDMENT.**

a. This article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

b. All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

Approved May 23, 1985

**CHAPTER 183**  
**HARBORING OR ENTICING A CHILD**  
*S.F. 401*

**AN ACT** relating to the harboring or enticing away of children and providing penalties.

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

Section 1. NEW SECTION. 710.8 HARBORING A RUNAWAY CHILD PROHIBITED  
— PENALTY.

1. As used in this section and section 726.9 unless the context otherwise requires:
  - a. "Criminal act" means the violation of any federal or state law.
  - b. "Harbor" means to provide aid, support, or shelter.
  - c. "Runaway child" means a person under eighteen years of age who is voluntarily absent from the person's home without the consent of the person's parent, guardian, or custodian.
2. A person shall not harbor a runaway child with the intent of committing a criminal act involving the child or with the intent of enticing or forcing the runaway child to commit a criminal act.
3. A person convicted of a violation of this section is guilty of an aggravated misdemeanor.

Sec. 2. NEW SECTION. 710.9 CIVIL LIABILITY FOR HARBORING A RUNAWAY CHILD.

A parent, guardian, or custodian of a runaway child has a right of action against a person who harbored the runaway child in violation of section 710.8 for expenses sustained in the search for the child, for damages sustained due to physical or emotional distress due to the absence of the child, and for punitive damages.

Sec. 3. NEW SECTION. 710.10 ENTICING AWAY A CHILD.

1. A person commits a class "D" felony when, without authority and with the intent to commit an illegal act upon the child, the person entices away a minor.
2. A person commits an aggravated misdemeanor when, without authority and with the intent to commit an illegal act upon the child, the person attempts to entice away a child.

Approved May 23, 1985

**CHAPTER 184**  
**CHILD CARE CENTERS AND DAY CARE HOMES**  
*S.F. 424*

**AN ACT** relating to the ownership and operation of, and employment by child care centers, group day care homes, and family day care homes, and providing a penalty.

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

Section 1. Section 237A.5, Code 1985, is amended to read as follows:  
237A.5 PERSONNEL.

All personnel in licensed or registered facilities shall have good health as evidenced by a report following a pre-employment physical examination taken within six months prior to beginning employment, including communicable disease tests by a licensed physician as defined in section 135C.1, at the time of initial employment and every three years thereafter after initial employment. No A person convicted under a law of any state of a crime involving mistreatment of a child or violence against a person, or a person with a record of founded child sexual abuse or a record of multiple incidents of any other type of founded child abuse shall not own or operate or be employed as a staff member with direct responsibility for child care, of a licensed center or, a registered group home or a family day care home registered pursuant to section 237A.3, subsection 1, with direct responsibility for child care and no person living and shall not live in such a licensed center, a registered group home, or a registered family day care home shall have a conviction by any law of any state of a crime involving mistreatment of a child, or violence against a person, or shall have a record of substantiated child sexual abuse or a record of any other type of child abuse substantiated within three years prior to the check of the child abuse registry made by the department pursuant to this chapter.

Every owner or operator of a licensed center, a registered group home, or a registered family day care home shall apply to the department for a criminal records check and a child abuse registry check at any time the records of an owner, operator, or staff member of, or a person living in any such facility have not previously been checked. The department shall make application forms available and shall initiate the records checks upon filing of an application with the department. Upon completion of the records checks, the department shall notify the applicant of the results of the records checks and whether the applicant can provide day care in compliance with this section. The department shall also notify an owner or operator of a licensed center, a registered group home, or a registered family day care home if an owner, operator, or staff member of, or person living in any such facility has a record of a single incident of founded child abuse other than child sexual abuse. An applicant is entitled to the procedural remedies provided in chapter 17A for adverse administrative action. A copy of a favorable records check must be made available upon request. The department shall maintain a list of licensed centers, registered group homes, and registered family day care homes with favorable records checks, and the list shall be a public record.

Sec. 2. Section 237A.19, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A person who establishes, conducts, manages, or operates a group day care home without registering under this chapter or who operates a family day care home contrary to section 237A.5, is guilty of a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

Sec. 3. This Act takes effect January 1, 1986.

Approved May 23, 1985

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## CHAPTER 185

### SALE OR LEASE OF COUNTY HOSPITAL

*S.F. 103*

**AN ACT** authorizing the board of supervisors to sell or lease a county hospital for use as a private hospital with voter approval.

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

Section 1. Section 331.361, subsection 5, paragraph c, Code 1985, is amended to read as follows:

c. Proceed upon a petition to, or with approval of the voters, establish a county public hospital under chapter 347 or sell or lease a county hospital for use as a private hospital or as a merged area hospital under chapter 145A or sell or lease a county hospital in conjunction with the establishment of a merged area hospital, ~~as provided in that chapter~~ in accordance with procedures set out in chapter 347.

Sec. 2. Section 347.7, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** In addition to levies otherwise authorized by this section, the board of supervisors may levy a tax at the rate, not to exceed twenty-seven cents per thousand dollars of assessed value, necessary to raise the amount budgeted by the board of hospital trustees for support of ambulance service as authorized in section 347.14, subsection 13.

Sec. 3. Section 347.13, subsection 10, Code 1985, is amended to read as follows:

10. Fix at its regular February meeting in each year, the amount necessary for the improvement and maintenance of the hospital and for support of ambulance service during the ensuing fiscal year, and cause the president and the secretary to certify the amount to the county auditor before March 1 of each year, subject to any limitation in section 347.7.

Sec. 4. Section 347.14, Code 1985, is amended by adding the following new subsection:



NEW SUBSECTION. 14. Submit to the voters at a regular or special election a proposition to sell or lease a county public hospital for use as a private hospital or as a merged area hospital under chapter 145A or to sell or lease a county hospital in conjunction with the establishment of a merged area hospital. The authorization of the board of hospital trustees submitting the proposition may, but is not required to, contain conditions which provide for maintaining hospital care within the county, for the retention of county public hospital employees and staff, and for the continuation of the board of trustees for the purpose of carrying out provisions of contracts. The property listed in section 347.13, subsection 12 may be included in the proposition, but the proceeds from the property shall be used for the purposes listed in section 347.13, subsection 13 or for the purpose of providing health care for residents of the county. Proceeds from the sale or lease of the county hospital or other assets of the board of trustees shall not be used for the prepayment of health care services for residents of the county with the purchaser or lessee of the county hospital or to underwrite the sale or lease of the county hospital. The proposition submitted to the voters of the county shall not be set forth at length, but it shall be in substantially the following form: "Shall the board of hospital trustees of \_\_\_\_\_ county, state of Iowa, be authorized to \_\_\_\_\_ (state authorization which may exclude the conditions) in accordance with the terms of authorization approved at the meeting of \_\_\_\_\_ (cite date) of the board of hospital trustees?" If the proposition is approved by a majority of the total votes cast for and against the proposition at the election, the board of hospital trustees shall proceed to carry out the authorization granted.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Red Oak Express*, a newspaper published in Red Oak, Iowa, and in the *Clear Lake Mirror-Reporter*, a newspaper published in Clear Lake, Iowa.

Approved May 23, 1985

I hereby certify that the foregoing Act was published in the *Clear Lake Mirror-Reporter*, Clear Lake, Iowa on May 29, 1985 and in *The Red Oak Express*, Red Oak, Iowa on June 4, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 186**  
**COMPLAINANT CONFIDENTIALITY**  
*H.F. 398*

**AN ACT** relating to the confidentiality of the name of a complainant regarding a person in a long-term care facility.

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

**Section 1. NEW SECTION. 249B.36 CONFIDENTIALITY OF COMPLAINANT.**

The name of the person who files a complaint with the commission, long-term care resident's aide, or a care review committee regarding a person in a long-term care facility shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than commission employees or care review committee members involved in the initial complaint.

**Sec. 2. Section 135C.37, Code 1985, is amended to read as follows:**

**135C.37 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.**

A person may request an inspection of a health care facility by filing with the department, ~~or care review committee of the facility, or the long-term care resident's aide as defined in section 249B.32, subsection 3,~~ a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to it this chapter. A copy of a complaint filed with the care review committee or the long-term care resident's aide shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of or prior to the inspection. The name of the person who files a complaint with the department, ~~or care review committee, or the long-term care resident's aide~~ shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

**Sec. 3. Section 249B.31, Code 1985, is amended to read as follows:**

**249B.31 PURPOSE.**

The purpose of sections 249B.31 through ~~249B.35~~ 249B.36 is to establish the long-term care resident's aide program operated by the Iowa commission on the aging in accordance with the requirements of the Older Americans Act of 1965, 42 U.S.C. sees. §§ 3026(a)(6)(d), 3027(a)(12) and 3030d(a)(10) amended to July 1, 1983, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission on the aging shall adopt and enforce rules for the implementation of sections 249B.31 through ~~249B.35~~ 249B.36.

**Sec. 4. Section 249B.32, unnumbered paragraph 1 and subsection 1, Code 1985, is amended to read as follows:**

As used in sections 249B.33 through ~~249B.35~~ 249B.36:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in sections 249B.33 through ~~249B.35~~ 249B.36.

Approved May 24, 1985

**CHAPTER 187****THEFT OF LIBRARY MATERIALS AND EQUIPMENT***H.F. 438*

**AN ACT** relating to the borrowing of library materials and equipment and evidence of intent in cases alleging theft of such materials and equipment, and providing penalties.

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

Section 1. Section 702.22, Code 1985, is amended to read as follows:

**702.22 LIBRARY MATERIALS AND EQUIPMENT.**

1. "Library materials" include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:

1 a. A public library.

2 b. A library of an educational, historical, or eleemosynary institution, organization, or society.

3 c. A museum.

4 d. A repository of public records.

2. "Library equipment" includes audio, visual, or audiovisual machines, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in subsection 1.

Sec. 2. Section 714.5, Code 1985, is amended to read as follows:

**714.5 LIBRARY MATERIALS AND EQUIPMENT — UNPURCHASED MERCHANDISE — EVIDENCE OF INTENTION.**

The fact that a person has concealed library materials or equipment as defined in section 702.22 or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or equipment or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of intent to deprive and, if the person conceals or causes to be concealed library materials or equipment or unpurchased property, upon the person or among the belongings of another, the finding of the same concealed materials, equipment or property is also material evidence of intent to deprive on the part of the person concealing the library materials, equipment or goods.

The fact that a person fails to return library materials for ~~six~~ two months or more after the date the person agreed to return the library materials, or fails to return library equipment for one month or more after the date the person agreed to return the library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment. Notices stating

the provisions of this section and of section 808.12 with regard to library materials or equipment shall be posted in clear public view in all public libraries, in all libraries of educational, historical or charitable institutions, organizations or societies, in all museums and in all repositories of public records.

After the expiration of three days following the due date, the owner of borrowed library equipment may request the assistance of a dispute resolution center, mediation center or appropriate law enforcement agency in recovering the equipment from the borrower.

The owner of library equipment may require deposits by borrowers and in the case of late returns the owner may impose graduated penalties of up to twenty-five percent of the value of the equipment, based upon the lateness of the return.

In the case of lost library materials or equipment, arrangements may be made to make a monetary settlement.

If library materials or equipment to be loaned to a person have a value of \$500 or more, the owner shall require a deposit and shall require the borrower to enter into a written agreement setting forth the amount of the deposit, the due date and the penalties for failure to return the materials or equipment as agreed. The deposit shall be returned in full if the materials or equipment are returned without damage on or before the due date.

Approved May 24, 1985

## CHAPTER 188

### SECURITY INTERESTS IN FARM PRODUCTS

*H.F. 554*

**AN ACT** relating to security interests in farm products and providing penalties.

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

Section 1. Section 554.9307, subsection 1, Code 1985, is amended to read as follows:

1. Except as provided in subsection 4, a buyer in ordinary course of business (subsection 9 of section 554.1201) other than a person buying farm products from a person engaged in farming operations as defined in section 554.1201, subsection 9, takes free of a security interest created by that person's seller even though the security interest is perfected and even though the buyer knows of its existence. For purposes of this section, a buyer or buyer in ordinary course of business includes any commission merchant, selling agent, or other person engaged in the business of receiving livestock as defined in section 189A.2 on commission for or on behalf of another.

Sec. 2. Section 554.9307, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. a. A buyer in ordinary course of business buying farm products from a person engaged in farming operations takes free of a security interest created by that person's seller even though the security interest is perfected, unless the buyer receives prior

written notice of the security interest, or unless the buyer purchases the farm products outside of the seller's trade area, or the buyer's principal place of business is located outside of the seller's trade area. The "seller's trade area" consists of the county in which the seller resides or a county that is contiguous to or corners upon the county where the seller resides. "Written notice" means a writing which may contain information regarding more than one debtor and more than one lien and contains all of the following:

- (1) The full name, address and social security or tax identification number of the debtor.
- (2) The full name and address of the secured party.
- (3) A description generally identifying the farm products subject to the security interest.
- (4) The date and signature of the secured party.

b. The written notice expires on the earlier of either of the following dates:

- (1) Eighteen months after the date the secured party signs the notice.
- (2) When the debt that appears on the notice is satisfied.

c. For the notice to be effective, the buyer of the farm products must have received the notice prior to the time the buyer has made full payment to the person engaged in farming operations. The notice is not effective against any payments made prior to receipt of the notice.

d. A debtor engaged in farming operations who has created a security interest in farm products shall provide the secured party with a written list of potential buyers of the farm products at the time the debt is incurred if the secured party requests such a list. The debtor shall not sell the farm products to a buyer who does not appear on the list or is not in the debtor's trade area unless the secured party has given prior written permission or the debtor applies the proceeds the debtor receives from the sale to the debt within fifteen days of the date of sale or delivery, whichever is later. A debtor who knowingly or intentionally sells the farm products in violation of this paragraph is guilty of an aggravated misdemeanor.

e. A buyer of farm products buying from a person engaged in farming operations shall issue a check for payment jointly to the debtor and those secured parties from whom the buyer has received prior written notice of a security interest. A buyer who issues a check jointly payable as specified in this subsection takes the farm products free of a security interest created by that person's seller. A buyer who does not issue a check jointly payable as specified in this subsection does not take farm products free of a security interest created by that person's seller. A buyer shall not withhold all or part of the payment to satisfy a prior debt. However, the buyer may withhold the costs incurred by the purchaser to market or transport the farm products if such costs are part of the agreement to purchase the farm products.

Sec. 3. Section 554.9404, subsection 1, Code 1985, is amended to read as follows:

1. If a financing statement covering consumer goods is filed on or after January 1, 1975, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. If a financing statement covering farm products is filed, then within sixty days, or within ten days following written demand by the debtor, after there is no outstanding secured objection and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file with each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a

security interest under the financing statement which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with section 554.9405, subsection 2, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor the affected secured party shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

Approved May 24, 1985

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## CHAPTER 189

### APPEAL EXTENSION FOR CERTAIN TAXES

*S.F. 13*

**AN ACT** to allow certain nonprofit corporations owning property in this state an extension of time to appeal to the local board of review its property assessment values for designated assessment years and to allow refunds of taxes paid for designated tax years.

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

Section 1. A domestic nonprofit corporation organized under chapter 504A which provides recreational and social functions for its members and which owns property in a county whose population exceeds twenty thousand but does not exceed twenty-five thousand persons by the last federal census shall, notwithstanding any other provision of law, have until thirty days following the effective date of this Act to appeal to the appropriate board of review its property assessment values for the 1981 and 1982 assessment years.

Sec. 2. Upon the receipt of the appeal of its property assessment values filed for the 1981 and 1982 assessment years under section 1 of this Act, the local board of review shall reduce the property assessment values, if justified, for the assessment years notwithstanding the failure to have filed the appeal for review within the time period required by law.

Sec. 3. If property taxes have been paid for the tax year beginning in the assessment year for which a reduction in property assessment values is granted under section 2 of this Act, the nonprofit corporation shall file within thirty days of the notice of the reduction a claim for refund of the property taxes paid for the tax year and the county treasurer shall refund to the taxpayer the amount of property taxes paid for the tax year and assess against all taxing districts within the county their proportionate amount of the refund.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ackley World-Journal, a newspaper published in Ackley, Iowa, and in The Toledo Chronicle, a newspaper published in Toledo, Iowa.

Approved May 24, 1985

I hereby certify that the foregoing Act was published in The Toledo Chronicle, Toledo, Iowa on May 29, 1985 and in the Ackley, World-Journal, Ackley, Iowa on May 30, 1985.

MARY JANE ODELL, *Secretary of State*

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## CHAPTER 190

### INVESTMENT POLICIES FOR CERTAIN STATE FUNDS

S.F. 27

AN ACT relating to the investment policies for funds available to certain state agencies.

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

Section 1. Section 97B.7, subsection 2, paragraph b, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Invest the portion of the retirement fund as in the judgment of the department is not needed for current payment of benefits under this chapter. The department shall determine the disposition and investment of moneys in the retirement fund. In the investment of the fund, the department shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs as provided in section 633.123, subsection 1.

The department shall give appropriate consideration to those facts and circumstances that the department knows or should know are relevant to the particular investment involved, including the role the investment plays in the total value of the retirement fund.

For the purposes of this paragraph, appropriate consideration includes, but is not limited to, a determination by the department that the particular investment is reasonably designed to further the purposes of the retirement system, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment and consideration of the following factors as they relate to the retirement fund:

- (1) The composition of the retirement fund with regard to diversification.
- (2) The liquidity and current return of the investments in the fund relative to the anticipated cash flow requirements of the retirement system.
- (3) The projected return of the investments relative to the funding objectives of the retirement system.

Consistent with this paragraph, investments made under this paragraph shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state.

If there is loss on the redemption or sale of securities, where invested as prescribed by law, neither the treasurer nor the department is personally liable, but the loss shall be charged against the retirement fund and there is appropriated from the retirement fund an amount as required for the loss. Expenses incurred in the sale and purchase of securities belonging to the retirement fund shall be charged to the retirement fund and there is appropriated from the retirement fund an amount as required for the expenses incurred. Investment management expenses shall be charged to the investment income of the retirement fund and there is appropriated from the retirement fund an amount as required for the investment management expenses, subject to the limitations stated in this subparagraph. The amount appropriated for a fiscal year under this subparagraph shall not exceed one-half percent of the market value of the retirement fund. The department shall report the investment management expenses for a fiscal year as a percent of the market value of the retirement fund in the annual report to the governor required in section 97B.4. A person who has signed a contract with the department for investment management purposes shall meet the requirements for doing business in Iowa sufficient to be subject to tax under rules of the department of revenue.

Sec. 2. Section 97B.8, unnumbered paragraph 1, Code 1985, is amended to read as follows:

A board is established to be known as the "Advisory Investment Board of the Iowa Public Employees' Retirement System", hereinafter called the "board", whose duties are to advise and confer with the department in matters relating to the investment of the trust funds of the Iowa public employees' retirement system. At least annually the board shall review the investment policies and procedures used by the department under section 97B.7, subsection 2, paragraph "b", and shall hold a public meeting on the investment policies and investment performance of the fund. Following its review and the public meeting, the board shall make recommendations to the department. The powers of the board are advisory and the department is not bound in the making of an investment, or adoption of an investment policy or procedure, by the recommendations of the board.

Sec. 3. Section 97B.57, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The information provided under this section shall include information on the investment policies and investment performance of the retirement fund. In providing this information, to the extent possible, the department shall include the total investment return for the entire fund, for portions of the fund managed by investment managers, and for internally-managed portions of the fund, and the cost of managing the fund per thousand dollars of assets. The performance shall be based upon market as well as book value, and shall be contrasted with relevant market indices and with performances of pension funds with similar investment policies and characteristics. This information shall be prepared and available to employees at least on an annual basis.

Sec. 4. Section 262.14, subsection 3, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

3. Any portion of the funds may be invested by the board. In the investment of the funds, the board shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in their own affairs as provided in section 633.123, subsection 1.

The board shall give appropriate consideration to those facts and circumstances that the board knows or should know are relevant to the particular investment involved, including the role the investment plays in the total value of the board's funds.

For the purposes of this subsection, appropriate consideration includes, but is not limited to, a determination by the board that the particular investment is reasonably designed to further the purposes prescribed by law to the board, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment and consideration of the following factors as they relate to the funds of the board:



- a. The composition of the funds of the board with regard to diversification.
- b. The liquidity and current return of the investments relative to the anticipated cash flow requirements.

c. The projected return of the investments relative to the funding objectives of the board.

Consistent with this subsection, investments made under this subsection shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state.

Sec. 5. Section 633.123, subsection 1, Code 1985, is amended to read as follows:

1. Investments by fiduciaries. In acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of another, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety, of their capital. Within the limitations of the foregoing standards, a fiduciary is authorized to acquire and retain every kind of property and every kind of investment, ~~specifically including, but not by way of limitation, bonds, debentures, and other corporate obligations, and stocks and shares, preferred or common,~~ which persons of prudence, discretion and intelligence acquire or retain for their own account.

Approved May 24, 1985

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**CHAPTER 191**  
**RAFFLES AT A FAIR**  
*S.F. 81*

**AN ACT** permitting a qualified organization to conduct a raffle at a fair if the organization has the permission of the sponsor of the fair and obtains a license to conduct the raffle.

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

Section 1. Section 99B.5, subsection 1, paragraphs a and b, Code 1985, are amended to read as follows:

a. The raffle is conducted by the sponsor of the fair or a qualified organization licensed under section 99B.7 that has received permission from the sponsor of the fair to conduct the raffle.

b. The sponsor of the fair or the qualified organization has submitted a license application and a fee of fifteen dollars for each raffle, ~~and~~ has been issued a license, and prominently displays the license at the drawing area of the raffle.

Approved May 24, 1985

**CHAPTER 192**  
**DISHONORED CHECKS**  
*S.F. 309*

**AN ACT** relating to dishonored checks, drafts, or orders for payment and providing penalties.

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

Section 1. **NEW SECTION. 554.3806 CIVIL REMEDY FOR DISHONOR OF A CHECK, DRAFT OR ORDER.**

1. In a civil action against a person who makes a check, draft or order for the payment of money which has been dishonored for lack of funds or credit or because the maker has no account with the drawee, the plaintiff may recover from the defendant damages triple the amount for which the dishonored check, draft or order is drawn. However, damages under this section shall not exceed by more than five hundred dollars the amount of the check, draft or order and may be awarded only if all the following are true:

a. The plaintiff made written demand by restricted certified mail of the defendant for payment of the amount of the check, draft, or order not less than thirty days before commencing the action.

b. The defendant has failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the amount demanded.

c. The plaintiff clearly and conspicuously posted a notice at the usual place of payment, or in a billing statement of the plaintiff, stating that civil damages pursuant to this section would be sought upon dishonorment.

2. In an action for damages pursuant to subsection 1, if the court or jury determines that the failure of the defendant to satisfy the dishonored check was due to economic hardship, the court or jury may waive all or part of the allowable civil damages. However, if the court or jury waives all or part of the civil damages, the court or jury shall render judgment against the defendant in the amount of the dishonored check, draft or order and the actual costs incurred by the plaintiff in bringing the action.

3. This section does not apply if the reason for the dishonor of the check, draft or order is that the maker has stopped payment pursuant to section 554.4403 because of a bona fide dispute between the maker and the holder relating to the consideration for which the check, draft, or order was given.

4. In actions brought pursuant to this section, no additional award pursuant to section 625.22 shall be made.

Approved May 24, 1985

**CHAPTER 193**  
**FALSE BLOOD PLASMA SALE APPLICATION**  
*S.F. 374*

**AN ACT** relating to the giving of false information on a blood plasma sale application to blood plasma taking personnel and providing a penalty.

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

Section 1. NEW SECTION. 139.33 BLOOD DONATION OR SALE — PENALTY.

A person suffering from a communicable disease dangerous to the public health who knowingly gives false information regarding the person's infected state on a blood plasma sale application to blood plasma taking personnel commits a serious misdemeanor.

Approved May 24, 1985

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**CHAPTER 194**  
**DEPOSIT AND INVESTMENT OF PUBLIC FUNDS**  
*S.F. 296*

**AN ACT** relating to the deposit and investment of public funds.

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

Section 1. Section 452.10, Code 1985, is amended by adding the following new unnumbered paragraph following unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of the Code to the contrary, a treasurer of a city as defined in section 411.1, subsection 18, may invest any public funds of the city not currently needed for operating expenses in investments authorized in section 411.7, subsection 2, and pursuant to section 97B.7, subsection 2, paragraph "b", and section 511.8, except common, preferred, or guaranteed stock and may hold, purchase, sell, assign, transfer or dispose of any of these investments as well as the proceeds of these investments. The city council shall implement appropriate investment policies to be followed by the city treasurer and shall periodically review the performance of the investments made by the city treasurer pursuant to such policies under this paragraph.

Sec. 2. Section 453.1, Code 1985, is amended to read as follows:

## 453.1 DEPOSITS IN GENERAL.

1. All funds held in the hands of the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. As used in this chapter, "depository" means a bank or any office thereof whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or any branch thereof or a savings bank or any branch thereof whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration. This subsection does not limit the definition of "public funds" contained in subsection 2.

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

a. "Depository" means a bank or any office of a bank whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or a savings bank or any branch of a savings and loan association or savings bank whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration.

b. "Public funds" and "public deposits" means the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.

3. A deposit of public funds in a depository pursuant to this chapter shall be secured as follows:

a. If a depository is a savings and loan association, a savings bank, or an office of a savings and loan association or savings bank, then the public deposits in those depositories shall be secured pursuant to sections 453.16 through 453.19 and sections 453.23 and 453.24.

b. If a depository is a bank, credit union, or an office of a bank or credit union, then the public deposits in those depositories shall be secured pursuant to sections 453.22 through 453.24.

4. Ambiguities in the application of this section shall be resolved in favor of preventing the loss of public funds on deposit in a depository.

Sec. 3. Section 453.16, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. The depository institution may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the depository institution. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

(3 4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

(5) First lien mortgages which are valued according to practices acceptable to the treasurer of state.

Sec. 4. Section 453.17, subsection 1, paragraph c, Code 1985, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank of Chicago, Illinois or the federal home loan bank of Des Moines, Iowa pursuant to a bailment agreement or a pledge custody agreement.

Sec. 5. **NEW SECTION. 453.22 REQUIRED COLLATERAL.**

1. The depository shall pledge the required collateral securities to the treasurer of state by depositing the collateral securities in restricted accounts of the treasurer of state, including but not limited to pledge-custody accounts, at a federal reserve bank, the United States central credit union, a trust department of another commercial bank or with another financial institution which has been designated by the treasurer of state that is not owned or controlled directly or indirectly by the same depository or holding company. The depository shall deliver to the treasurer of state a security agreement which provides the treasurer of state with a valid and perfected security interest in the required collateral. The market value of the required collateral shall not be less than one hundred ten percent of the total public funds placed on deposit in the depository.

2. The treasurer of state shall adopt the following rules:

a. Providing for valuation of collateral if the market value of a security is not readily determinable.

b. Establishing reporting requirements.

c. Establishing procedures for substituting different securities consistent with subsection 3.

d. Establishing administrative procedures necessary to implement this chapter and other rules as may be necessary to accomplish the purposes of this chapter.

e. Designating financial institutions eligible to be custodian of pledged collateral.

f. Establishing fee schedules to cover costs incurred for opening and closing accounts and substitution of collateral.

3. The securities used to secure public deposits shall be acceptable to the treasurer of state and shall be one or more of the following:

a. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

b. Public bonds or obligations of this state or a political subdivision of this state.

c. Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

d. To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

e. First lien mortgages which are valued according to practices acceptable to the treasurer of state.

f. Corporate bonds rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

g. A bond of a surety company approved by the United States treasury department.

4. A depository may borrow collateral used for a pledge if the collateral is free of any liens, security interests, claims, or encumbrances.

5. The superintendent of banking shall adopt rules for uniform methods, documentation and forms for pledging required collateral securities by banks under this chapter.

Sec. 6. NEW SECTION. 453.23 PAYMENT OF LOSSES.

1. The pledging of securities by a depository pursuant to this chapter constitutes consent by the depository to the disposition of the securities in accordance with this section.

2. The depository and the security given for the public funds in its hands are liable for payment if the depository fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificates of deposit, or any public funds entrusted to it if in failing to pay the depository acts contrary to the terms of an agreement between the depository and the public body treasurer.

3. If a depository is closed by its primary regulatory officials, the public body with deposits in the depository shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the depository, the treasurer shall validate the amount of public funds on deposit at the defaulting depository and the amount of deposit insurance applicable to the deposits.

b. The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting depository, and then the assets of the defaulting depository. The priority of claims are those established pursuant to section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.516. To the extent permitted by federal law, in the distribution of an insolvent federally chartered depository's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered depository as provided in section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.516.

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the depository institution agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed depository's assets which are liquidated within thirty days of the closing of the depository and pledged collateral, the treasurer shall provide coverage of the remaining loss as follows:

(1) If the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents the average of public funds deposits held by all banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that credit union. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(3) If the loss was incurred in a savings and loan or a savings bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in savings and loan associations and savings banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other savings and loans and savings banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all savings and loans and savings banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each savings and loan and savings bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a savings and loan or savings bank fails to pay its assessment when due, the treasurer shall initiate a lawsuit to collect the assessment. If a savings and loan association or a savings bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs of the action, reasonable attorney's fees based upon the amount of

time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office.

e. Any amount realized from the sale of collateral pursuant to paragraphs "c", subparagraphs (1) and (2) in excess of the amount of a depository's assessment, shall continue to be held by the treasurer, in the same interest bearing investments available for public funds, as collateral until that depository provides substitute collateral or is otherwise entitled to its release.

f. Following collection of the assessments, the state treasurer shall distribute funds to the public depositors of the failed depository according to their validated claims. If the assets available are less than the total deposits, the treasurer shall prorate the claims. A public depositor receiving payment under this section shall assign to the treasurer any interest the public depositor may have in funds that subsequently become available to depositors of the defaulting depository.

**Sec. 7. NEW SECTION. 453.24 LIABILITY.**

When public deposits are made in accordance with this chapter, a public body depositing public funds or its agents, employees, officers, and board members are exempt from liability for any loss resulting from the loss of a depository in the absence of negligence, malfeasance, misfeasance or nonfeasance on the part of the official. If the treasurer of state sells a depository's collateral securities, the depository shall deposit additional collateral to meet required collateral levels.

In making an assessment against depositories holding public funds as a result of a failure, the treasurer of state is exempt from any liability for loss, damage or expense to a depository which has accepted public funds.

**Sec. 8. NEW SECTION. 453.25 STATE SINKING FUNDS CREATED.**

There are created in the treasurer of state's office the following funds:

1. A state sinking fund for public deposits in banks.
2. A state sinking fund for public deposits in credit unions.
3. A state sinking fund for public deposits in savings and loan associations and savings banks.

The funds shall be used to receive and disperse moneys pursuant to section 453.23, subsection 3, paragraph "c".

**Sec. 9.** Section 524.1312, subsection 2, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

2. The payment of claims for public funds deposited pursuant to chapter 453 and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

**Sec. 10.** Section 533.22, subsection 1, paragraph b, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The payment of claims for public funds deposited pursuant to chapter 453 and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined by the statutes or, in the absence of conflicting provisions, on a pro rata basis.



Sec. 11. Section 534.308, Code 1985, is amended to read as follows:

**534.308 SAVINGS LIABILITY — CLASSES OF ACCOUNTS.**

The savings liability of an association is not limited, but consists only of the aggregate amount of share accounts of its members, plus dividends credited to the accounts, less redemption and withdrawal payments. Except as limited by the board of directors, a member may make additions to the member's share account in the amounts and at the times the member elects. Share accounts shall be opened for cash. The members of an association are not responsible for losses which its savings liability is not sufficient to satisfy, and share accounts are not subject to assessment, nor are the holders of share accounts liable for unpaid installments on their accounts. Dividends shall be declared in accordance with this chapter.

**PARAGRAPH DIVIDED.** An association shall not prefer one of its share accounts over any other share account as to the right to participate in dividends as to time or amount, except that an association may classify its savings accounts according to the location of the offices at which the accounts are opened, the character, amount or duration of the accounts, or the regularity of additions to the accounts, and may agree in advance to pay an additional rate of earnings for particular classes of accounts such as a variable rate or bonus for saving larger amounts, or for maintaining savings over a longer period of time or with regularity, as determined by the board of directors. However, all classes of accounts shall be available to all qualifying members. The board of directors may also determine that earnings shall not be paid on an account which has a withdrawable value in an amount less than fifty dollars. ~~Preference~~ Except as provided in section 534.516, preference between share account members shall not be created with respect to the distribution of assets upon voluntary or involuntary liquidation, dissolution, or winding up of an association. An association shall not contract with respect to the savings liability in a manner inconsistent with this chapter.

Sec. 12. **NEW SECTION. 534.516 PRIORITY OF PUBLIC FUNDS UPON DISSOLUTION.**

After payment of the costs and expenses of dissolution, the first claim upon the assets of an association shall be the claims for public funds deposited pursuant to chapter 453 and claims which are given priority by applicable statute. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 13. 1984 Iowa Acts, chapter 1230, section 28, is amended by striking the section and inserting the following:

SEC. 28. The treasurer of state shall transfer the state sinking fund and the moneys contained in it upon the repeal of chapter 454 to the state sinking fund for public deposits in banks.

Sec. 14. Section 453.20, Code 1985, is repealed.

Approved May 24, 1985

**CHAPTER 195**  
**CODE CORRECTION BILL**  
*S.F. 329*

**AN ACT** relating to Code corrections which adjust language to reflect current necessary practices, correct earlier omissions, delete redundancies, inaccuracies, and temporary and discriminatory language, remove inconsistencies, update ongoing provisions, remove ambiguities, improve syntax, correct references, and update provisions relating to court reorganization.

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

Section 1. Section 14.13, Code 1985, is amended to read as follows:  
14.13 EDITORIAL WORK.

1. The Code editor in preparing the copy for an edition of the Code and the Iowa administrative code and bulletin ~~shall have power to~~ may:

1 a. Correct all misspelled words in the original enrollments and filed rules.

2 b. Correct all manifest grammatical and clerical errors including punctuation but without changing the meaning.

3 c. 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 compile a list of the corrections made under this ~~subsection~~ paragraph in Code editor's notes to the edition of the Code in which the corrections are made. This list shall be available to the public.

4 d. Transpose sections or ~~to~~ divide sections so as to give to distinct subject matters a section number but without changing the meaning.

5 e. Prepare comments deemed necessary for a proper explanation of the manner of printing the section or chapter of the Code.

2. The Code editor, in carrying out the duties specified in this chapter relating to publication of the Code, shall edit the Code in order that words which designate one gender will be changed to reflect both genders when the provisions of law apply to persons of both genders. The Code editor shall not make any substantive changes to the Code while performing the editorial work. The Code editor shall seek direction from the senate committee on judiciary and the house committee on judiciary and law enforcement when making any changes which appear to require substantial editing and which might otherwise be interpreted to exceed the scope of the Code editor's authority. The Code editor shall maintain a record of the changes made under this subsection. The record shall be available to the public.

3. The effective date of all editorial changes in an edition of the Code or supplement to the Code is the date the legislative council approves the printing contract for publication of that edition or supplement.

Sec. 2. Section 14.14, Code 1985, is amended to read as follows:

#### 14.14 FORMAL MATTERS OMITTED OMISSIONS IN REFERENCES TO CODE SECTIONS.

When any an Act of the general assembly subsequent to the issuance of the Code of 1924 contains in the substantive part of the Act a reference to a section of the Code and designates such the section by such a reference such as "Code 1924", "Code 1927", or "Code 1931", etc., or the equivalent thereof, the Code editor is directed may in the preparation of the ensuing Code to omit the year indicated by such the reference.

Sec. 3. Section 17.16, Code 1985, is amended to read as follows:

##### 17.16 LEGISLATIVE PROCEEDINGS.

The reports of the legislative proceedings shall be delivered by the secretary of the senate and the chief clerk of the house to the superintendent of printing promptly upon completion, and the superintendent of printing shall cause such the reports to be printed in accordance with the contracts covering the same them. He The superintendent of printing shall require that proof copies of the daily journal be furnished the next legislative day after date and shall promptly deliver them to the sergeants at arms of each house. The corrections and changes made therein in the journal by the general assembly shall be made before the printing of the corrected or completed journal.

Sec. 4. Section 17.30, unnumbered paragraph 1, Code 1985, is amended to read as follows:

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

Sec. 5. Section 23.1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

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

Sec. 6. Section 29C.20, subsection 1, Code 1985, is amended to read as follows:

1. A contingent fund is created in the state treasury for the use of the executive council which may be expended for the purpose of paying the expenses of suppressing any an insurrection or riot, actual or threatened, when state aid has been rendered by order of the governor, and for repairing, rebuilding, or restoring any state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, and for aid to any governmental subdivision in an area declared by the governor to be a disaster area due to natural disasters or to expenditures necessitated by the governmental subdivision toward averting or lessening the impact of such the potential disaster, where the effect of such the disaster or such action on the governmental subdivision is the immediate financial inability to meet the continuing requirements of local government. Upon application by a governmental subdivision in such an area, accompanied by a showing of obligations and expenditures necessitated by such an actual or potential disaster in such a form and with such further information as the executive council may require requires, such the aid may be made in the discretion of the executive council and, if made, shall be in the nature of a loan up to a limit of seventy-five percent of the showing of such obligations and expenditures. The loan, without interest, shall be repaid by the maximum annual emergency levy as authorized by section 24.6, or by the appropriate levy authorized for a governmental subdivision not covered by section 24.6. The aggregate total of such loans shall not exceed one million dollars during any a fiscal year. A loan shall not be for any an obligation or expenditure occurring more than two years previous to the application.

Sec. 7. Section 76.2, unnumbered paragraph 3, Code 1985, is amended by striking the unnumbered paragraph.

Sec. 8. Section 80C.2, unnumbered paragraph 1, subsections 1, 2 and 3, and unnumbered paragraph 2, Code 1985, are amended to read as follows:

The criminal and juvenile justice advisory council is created to advise the governor and legislature and direct the agency in the performance of its duties and to perform other duties as required by law. The council ~~shall consist of eleven~~ consists of twelve members. The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons ~~who each of whom~~ are either a county supervisor, county sheriff, a mayor, city chief of police or a county attorney.

2. Two persons shall represent the general public and shall not be employed in any law enforcement, judicial, or corrections capacity.

3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The commissioner of the department of human services, the director of the Iowa department of corrections, the commissioner of public safety, the attorney general and the chief justice of the supreme court shall each designate a person to serve on the council.

Sec. 9. Section 85.61, subsections 1 and 8, Code 1985, are amended to read as follows:

1. "Employer" includes and applies to any person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer ~~firemen~~ fire fighters only, benefited fire district and the legal representatives of a deceased employer.

8. ~~The term "volunteer"~~ "Volunteer fire fighters" ~~shall mean~~ means any active member of an organized volunteer fire department in this state and any other person performing services as a volunteer ~~fireman~~ fire fighter for a municipality, township or benefited fire district at the request of the chief or other person in command of the fire department of ~~such~~ the municipality, township or benefited fire district, or of any other officer of ~~such~~ the municipality, township or benefited fire district having authority to demand such service, and who is not a full-time member of a paid fire department. A person performing such services shall not be classified as a casual employee.

Sec. 10. Section 97B.49, subsection 8, paragraph a, unnumbered paragraph 4, is amended by striking the unnumbered paragraph.

Sec. 11. Section 113.18, subsection 5, Code 1985, is amended to read as follows:

5. Any other kind of fence which, ~~in the opinion of the fence viewers, shall~~ consider to be equivalent thereto to a lawful fence or which meets standards established by the department of agriculture by rule as equivalent to a lawful fence.

Sec. 12. Section 113.20, subsection 3, Code 1985, is amended to read as follows:

3. Any other kind of a ~~tight partition~~ fence which, ~~in the opinion of the fence viewers, is~~ consider to be equivalent thereto to a tight partition fence or which meets standards established by the department of agriculture by rule as equivalent to a tight partition fence.

Sec. 13. Section 114.21, subsections 1 and 5, Code 1985, are amended to read as follows:

1. Fraud in procuring a license certificate of registration.

5. Conviction of a felony related to the profession or occupation of the licensee registrant or the conviction of any felony that would affect the licensee's registrant's ability to practice professional engineering or land surveying. A copy of the record of conviction or plea of guilty shall be ~~is~~ conclusive evidence.

Sec. 14. Section 118A.15, subsections 1 and 5, Code 1985, are amended to read as follows:

1. Fraud in procuring a license certificate of registration.

5. Conviction of a felony related to the profession or occupation of the licensee registrant that would affect the registrant's ability to practice professional land landscape architecture. A copy of the record of conviction or plea of guilty shall be is conclusive evidence.

Sec. 15. Section 123.150, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Notwithstanding section 123.36, subsection 6, section 123.49, subsection 2, paragraph "b", and section 123.134, subsection 5, a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense such liquor or beer to patrons for consumption on the premises between the hours of ~~noon~~ ten a.m. on Sunday and two a.m. on Monday when that Monday is New Years Day and beer for consumption off the premises between the hours of ~~noon~~ ten a.m. Sunday and ten p.m. midnight Sunday when that Sunday is the day before New Years Day. The liquor control license fee or beer permit fee of licensees and permittees permitted to sell or dispense such liquor or beer on a Sunday when that Sunday is the day before New Years Day shall not be increased because of this privilege.

Sec. 16. Section 127.20, Code 1985, is amended to read as follows:

#### 127.20 SALE OF CONVEYANCE.

Prior to placing the conveyance for sale to the general public, the sheriff shall permit any owner or lien holder having a property interest of fifty percent or more in the conveyance the opportunity to purchase the property interest forfeited. If such an owner or lien holder does not exercise an option under this section or if no such owner or lien holder exists, the conveyance shall be sold at public auction with the proceeds first being applied to the owners and lien holders who have not had their property interest forfeited and then applied to the expenses of keeping the conveyance and court costs, and any remaining funds shall be conveyed by the clerk of the district court to the treasurer of state for deposit in the general fund of the state.

Sec. 17. Section 136C.14, Code 1985, is amended to read as follows:

#### 136C.14 QUALIFIED OPERATORS – DISPLAY OF CREDENTIALS.

1. A person, other than a licensed professional, shall not operate equipment a radiation machine or use radioactive materials for medical treatment or diagnostic purposes unless that person has completed a course of instruction approved by the department or has otherwise met the minimum training requirement established by the department.

2. A person, other than a licensed professional, who operates equipment a radiation machine or uses radioactive materials for medical treatment or diagnostic purposes shall display the credentials which indicate that person's qualification to operate equipment the machine or use the materials in the immediate vicinity of the equipment machine or where the materials are stored. A person who owns or controls the equipment machine or materials is also responsible for the proper display of credentials of those who operate the equipment machine or use the materials and shall not employ a person to operate equipment the machine or use the materials for medical treatment or diagnostic purposes except as provided in this section.

Sec. 18. Section 144.36, subsection 1, Code 1985, is amended to read as follows:

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The clerk of the district court shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The clerk of the district court in each

county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state and shall be prescribed by the state department. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept in lieu of marriage record books.

Sec. 19. Section 144.37, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The clerk of the district court in each county shall keep a record book for dissolutions. The form of dissolution record books shall be uniform throughout the state and shall be prescribed by the state department. A properly indexed record of dissolutions upon microfilm, electronic computer, or data processing equipment may be kept in lieu of dissolution record books.

Sec. 20. Section 196.1, subsection 7, Code 1985, is amended to read as follows:

7. "Grading" means classifying each shell egg by weight and grading in accordance with egg grading standards approved by the United States government as of July 1, ~~1979~~ 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. § 1621 et seq.

Sec. 21. Section 196.2, Code 1985, is amended to read as follows:

#### 196.2 ENFORCEMENT.

The secretary shall enforce the provisions of this chapter, and may make rules pursuant to chapter 17A and consistent with regulations of the United States government as they exist on July 1, ~~1979~~ 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. § 1621 et seq., and the Egg Products Inspection Act of 1970, 21 U.S.C. § 1044 et seq.

Sec. 22. Section 196.9, Code 1985, is amended to read as follows:

#### 196.9 EGGS UNFIT AS HUMAN FOOD.

Eggs determined to be unfit for human food under title 21, section 1034 of the United States Code as amended to July 1, ~~1979~~ 1985 shall not be bought or sold or offered for purchase or sale by any person unless the eggs are denatured so that they cannot be used for human food.

Sec. 23. Section 214A.2, subsection 2, unnumbered paragraph 8, Code 1985, is amended to read as follows:

"A.S.T.M." means the A.S.T.M. standards in effect on July 1, ~~1983~~ 1985.

Sec. 24. Section 217A.47, Code 1985, is amended to read as follows:

#### 217A.47 DEDUCTION TO PAY COURT COSTS OR DEPENDENTS — DEPOSITS.

If wages allowances are paid pursuant to section 217A.46, the director may deduct an amount established by the ~~inmates'~~ inmate's restitution plan of payment or an amount sufficient to pay all or part of the court costs taxed as a result of the inmate's commitment. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may pay all or any part of remaining wages allowances paid pursuant to section 217A.46 directly to a dependent of the inmate, or may deposit the wage allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 25. Section 229.21, subsection 3, Code 1985, is amended to read as follows:

3. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of substance abusers under sections 125.75 to 125.94 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge is accessible in the county, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall ~~thereupon~~ discharge all of the duties imposed upon judges of the district court or magistrates by sections 229.7 to 229.19 or sections 125.75 to 125.94 in the proceeding so initiated. If an emergency hospitalization proceeding is initiated under section 229.22 a judicial

hospitalization referee may perform the duties imposed upon a magistrate by that section. Upon termination of the proceeding or issuance of an order under section 229.13 or section 125.83, the referee shall transmit either to the chief judge, or another judge of the district court designated by the chief judge, a statement of the reasons for the referee's action and a copy of any order issued.

Sec. 26. Section 232.37, subsection 4, Code 1985, is amended to read as follows:

4. Service of summons or notice shall be made personally by the delivery of a copy thereof of the summons or notice to the person being served. If the court determining determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address or by publication or both. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

Sec. 27. Section 249A.14, Code 1985, is amended to read as follows:

249A.14 COUNTY ATTORNEY TO ENFORCE.

It is the intent of the general assembly that violations of law relating to aid to dependent children, medical assistance, and supplemental assistance shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide such assistance in prosecution as may be required. It is the intent of the general assembly that the first priority for investigation and prosecution for which funds are provided by this Act shall be for fraudulent claims or practices by health care vendors and providers.

Sec. 28. Section 252C.9, Code 1985, is amended to read as follows:

252C.9 COURT ORDER PREVAILS.

If an order of the director issued pursuant to this chapter conflicts with an order of a court, to the extent of the conflict the court order prevails.

Sec. 29. Section 258.7, subsection 15, Code 1985, is amended to read as follows:

15. Represent the state manpower services job training coordinating council established pursuant to section 107 of the United States Comprehensive Employment and Training Act of 1973 29 U.S.C. § 1532.

Sec. 30. Section 273.2, unnumbered paragraph 2, Code 1985, is amended to read as follows:

An area education agency established under this chapter is a body politic as a school corporation for the purpose of exercising powers granted under this chapter, and may sue and be sued. An area education agency may hold property and execute lease-purchase agreements pursuant to section 273.3, subsection 7, and if the lease exceeds ten years or the purchase price of the property to be acquired pursuant to a lease-purchase agreement exceeds five twenty-five thousand dollars, the area education agency shall conduct a public hearing on the proposed lease-purchase agreement and receive approval from the area education agency board of directors and the state board of public instruction before entering into the agreement.

Sec. 31. Section 321.22, subsection 3, Code 1985, is amended to read as follows:

3. The department shall issue transit bus (license) registration plates as applied for, which shall have imprinted thereon be imprinted with the words "Transit Bus" and the distinguishing number assigned to the applicant. The department shall issue the certificates and plates without fee.

Sec. 32. Section 321.38, Code 1985, is amended to read as follows:

321.38 PLATES, METHOD OF ATTACHING.

Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less

than twelve inches from the ground, measuring from the bottom of ~~such~~ the plate, in a place and position to be clearly visible and shall be maintained free from foreign materials ~~or imitation~~ and in a condition to be clearly legible. An imitation plate or plates imitating or purporting to imitate the official license registration plate of any other state or territory of the United States or of any foreign government and in a condition to be clearly legible shall not be fastened to the vehicle.

Sec. 33. Section 321.104, subsection 3, Code 1985, is amended to read as follows:

3. Any A person who shall fail fails to surrender any a certificate of title or, registration card or license registration plates upon cancellation, suspension or revocation of the same certificate or registration by the department and notice thereof as prescribed in this chapter.

Sec. 34. Section 321.177, subsection 1, Code 1985, is amended to read as follows:

1. To any person, as an operator, who is under the age of eighteen years, without the person's first having successfully completed an approved driver education course, in which case, the minimum age shall be is sixteen years. However, the department may issue a ~~restricted~~ school license as provided in section 321.194, or ~~an a~~ temporary instruction permit as provided in section 321.180, to any person who is at least fourteen years of age. The department may issue a license restricted ~~only~~ only for use only for motorized bicycles as provided in section 321.189, subsection 2.

Sec. 35. Section 321.196, unnumbered paragraph 1, Code 1985, is amended to read as follows:

An operator's license shall ~~expire four~~ expires six years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of eighteen and seventy years on the date of issuance of the license, otherwise the license shall be is effective for a period of two years. The license shall be is renewable without written examination or penalty within a period of thirty days after its expiration date. A person shall not be considered to be driving with an invalid license during a period of thirty days following the license expiration date. However, for ~~any a~~ any a license renewed within ~~such the~~ the thirty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. Applicants whose licenses are restricted due to vision or other physical deficiencies may be required to renew their licenses every two years. For the purposes of this section the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. All applications for renewal of operators' licenses shall be made under the direct supervision of a uniformed member of the department and shall be approved by the uniformed member. The department in its discretion may authorize the renewal of a valid license upon application without an examination provided that the applicant satisfactorily passes a vision test as prescribed by the department.

Sec. 36. Section 321.218, unnumbered paragraph 2, Code 1985, is amended to read as follows:

Any person operating a motorized bicycle on the highways of the state not possessed of an operator's or chauffeur's license ~~valid for operation of motoreycles~~ or a valid motorized bicycle license, shall, upon conviction, be guilty of a simple misdemeanor.

Sec. 37. Section 321.281, subsection 10, Code 1985, is amended to read as follows:

10. The court shall order a defendant convicted of a violation of this section to make restitution, in an amount not to exceed two thousand dollars, for damages resulting directly from the violation. An amount paid pursuant to this restitution order shall be credited toward any adverse judgment in a subsequent civil proceeding arising from the same occurrence. However, other than establishing a credit, a restitution proceeding pursuant to



this section shall not be given evidentiary or preclusive effect in a subsequent civil proceeding arising from the same occurrence.

Sec. 38. Section 321.388, Code 1985, is amended to read as follows:

321.388 ILLUMINATING PLATES.

Either ~~such~~ the rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. When the rear ~~license~~ registration plate is illuminated by an electric lamp other than the required rear lamp, ~~said~~ the two lamps shall be turned on or off only by the same control switch at all times ~~whenever~~ when head lamps are lighted.

Sec. 39. Section 327G.32, unnumbered paragraph 3, Code 1985, is amended to read as follows:

This section notwithstanding, a political subdivision may pass a resolution or ordinance regulating the length of time a specific crossing may be blocked if the political subdivision demonstrates that a resolution or ordinance is necessary for public safety or convenience. If a resolution or ordinance is passed the political subdivision shall within thirty days of the effective date of the resolution or ordinance notify the authority and the railroad corporation using the crossing affected by the resolution or ordinance. The resolution or ordinance shall not become effective unless the authority and the railroad corporation are notified within thirty days. The resolution or ordinance shall become effective thirty days after notification unless a person files an objection to the resolution or ordinance with the authority. If an objection is filed the authority shall hold a hearing. The authority may disapprove the resolution or ordinance if public safety or convenience does not require a resolution or ordinance. The resolution or ordinance approved by the political subdivision is prima-facie evidence that the resolution or ordinance is adopted to preserve public safety or convenience.

Sec. 40. Section 331.427, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. Moneys remitted by the clerk of the district court and received from a magistrate or district associate judge for fines and forfeited bail ~~under section 602.55, except those directed to be placed in the school fund imposed pursuant to a violation of a county ordinance.~~

Sec. 41. Section 331.602, Code 1985, is amended by adding the following new subsection after subsection 29:

NEW SUBSECTION. 29A. Maintain confidential records of prearranged funeral plans as required under section 523A.2.

Sec. 42. Section 331.756, Code 1985, is amended by adding the following new subsection after subsection 70:

NEW SUBSECTION. 70A. Accept filings and conduct examinations and audits relating to prearranged funeral plans as required under section 523A.2.

Sec. 43. Section 331.904, subsection 1, Code 1985, is amended to read as follows:

1. The annual salary of the first and second deputy officer of the office of auditor, treasurer, and recorder, and the deputy in charge of the motor vehicle registration and title division shall each be an amount not to exceed eighty percent of the annual salary of the deputy's principal officer. In offices where more than two deputies are required, each additional deputy shall be paid an amount not to exceed seventy-five percent of the principal officer's salary, ~~except that in a county having two locations at which the district court is held, an additional deputy clerk shall be paid an amount not to exceed eighty percent of the principal officer's salary.~~ The amount of the annual salary of each deputy shall be certified by the principal officer to the board and, if a deputy's salary does not exceed the limitations specified in this subsection, the board shall certify the salary to the auditor. The board shall not certify a deputy's salary which exceeds the limitations of this subsection.

Sec. 44. Section 364.3, subsection 2, Code 1985, is amended to read as follows:

2. A city shall not provide a penalty in excess of a one hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be remitted quarterly to the county treasurer of the county in which the city is located deposited in the court revenue distribution account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 45. Section 384.6, unnumbered paragraph 1, Code 1985, is amended to read as follows:

A city may establish a trust and agency fund funds for the following purposes:

Sec. 46. Section 384.12, subsection 19, paragraph c, Code 1985, is amended to read as follows:

c. The proposition to be submitted shall be substantially in the following form:

Vote for only one of the following:

Shall the city of ..... (name of city) levy a tax for the purpose of ..... (state purpose of levy election) at a rate of ..... (rate) which will provide \$..... (amount)?

~~The~~ Shall the city of ..... shall continue under the maximum rate of ..... providing \$..... (amount)?

Sec. 47. Section 422.43, subsections 3 and 11, Code 1985, are amended to read as follows:

3. The tax thus imposed ~~shall cover~~ covers all receipts from the operation of games of skill, games of chance, raffles and bingo games as defined in chapter 99B, and musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, slot-operated devices selling merchandise not subject to the general sales taxes and on all receipts from devices or systems where prizes are in any manner awarded to patrons and upon the receipts from fees charged for participation in any game or other form of amusement, and generally upon the gross receipts from any source of amusement operated for profit, not specified herein in this section, and upon the gross receipts from which no tax is collected for tickets or admission, but no tax shall be imposed upon any activity exempt from sales tax under the provision of section 422.45, subsection 4 3. Every person receiving gross receipts from the sources as defined in this section shall be is subject to all provisions of this division relating to retail sales tax and such other provisions of this chapter as may be applicable.

11. The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling, excluding investment services of trust departments; bank service charges; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property; excavating and grading; farm implement repair of all kinds; flying service, except agricultural aerial application services and aerial commercial and charter transportation services; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewing and stitching; shoe repair and shoeshine;

storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing. For purposes of this subsection, gross taxable services from rental includes rents, royalties, and copyright and license fees.

Sec. 48. Section 422.45, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** The gross receipts from services rendered, furnished or performed by specialized flying implements of husbandry used for agricultural aerial spraying and aerial commercial and charter transportation services.

Sec. 49. Section 534.406, Code 1985, is amended to read as follows:

**534.406 RECEIVERSHIP.**

When any building and loan or savings and loan association is conducting its business illegally, or in violation of its articles of incorporation or bylaws, or is practicing deception upon its members or the public, or is pursuing a plan of business that is injurious to the interest of its members, or its affairs are in an unsafe condition, the auditor of state shall notify the directors thereof of the association, and, if they shall fail to put its affairs upon a safe basis, the auditor shall advise the attorney general thereof, who shall take the necessary steps to wind up its affairs in the manner provided by law. In such the proceedings a receiver may be appointed by the court and such the proceedings shall be the exclusive liquidation or insolvency proceeding and a receiver shall not be appointed in any other proceedings. The provisions for notice, hearing, findings and review set out under the above section shall also apply to this section.

Sec. 50. Section 556.5, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. Otherwise communicated with the association regarding the interest of or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

Sec. 51. Section 556.25, subsection 1, Code 1985, is amended to read as follows:

1. A person who fails to pay or deliver property within the time prescribed by this chapter shall pay the treasurer of state interest at the annual rate of eighteen percent on the property or value of the property from the date the property should have been paid or delivered but in no event prior to July 1, 1967 1984.

Sec. 52. Section 598.14, unnumbered paragraph 1, Code 1985, is amended to read as follows:

In making temporary orders, the court shall take into consideration the age and sex of the applicant, the physical and pecuniary condition of the parties, and such other matters as are pertinent, which may be shown by affidavits, as the court may direct; however, the hearing on the application shall be limited to matters set forth in such the application, the affidavits of the parties, and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected therewith with the petition or answer.

Sec. 53. Section 602.8102, subsection 40, Code 1985, is amended by striking the subsection.

Sec. 54. Section 602.8105, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. For payment in advance of various services and docketing procedures, excluding those for small claims actions and simple misdemeanor actions, twenty-five dollars.

Sec. 55. Section 602.8106, subsection 3, Code 1985, is amended to read as follows:

3. The clerk shall remit all other fines and forfeited bail received from a magistrate to the treasurer of state for ~~distribution under section 602.8107~~ to be credited to the general fund of the state.

Sec. 56. Section 602.8106, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. The clerk shall remit all fines and forfeited bail received from a magistrate or district associate judge for violation of a county ordinance, except an ordinance relating to vehicle speed or weight restrictions, to the county treasurer of the county that was the plaintiff in the action, and shall provide that county with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed. However, if a county ordinance provides a penalty for a violation which is also penalized under state law, the fines and forfeited bail collected for the violation of that ordinance shall be deposited in the court revenue distribution account established under section 602.8108.

Sec. 57. Section 602.11102, subsection 2, paragraph d, Code 1985, is amended to read as follows:

d. Notwithstanding paragraphs "b" and "c", for the period beginning July 1, 1984, and ending June 30, 1986, court reporters who become state employees as a result of this Act chapter are not subject to the sick leave and vacation accrual limitations generally applied to state employees.

Sec. 58. Section 628.28, Code 1985, is amended to read as follows:

**628.28 REDEMPTION OF PROPERTY NOT USED FOR RESIDENTIAL OR AGRICULTURAL PURPOSES.**

If real property is not used for agricultural purposes, as defined in section 535.13, and is not the residence of the ~~mortgagor or the owner debtor~~, or if it is the residence of the ~~mortgagor or the owner debtor~~ but not a single-family or two-family dwelling, then the period of redemption after foreclosure is one hundred eighty days, ~~or if. For the first ninety days after the sale the right of redemption is exclusive to the debtor and the time periods provided in sections 628.5, 628.15 and 628.16 are reduced to one hundred thirty-five days. If a deficiency judgment has been waived the period of redemption is reduced to ninety days, and. For the first thirty days after the sale the redemption is exclusively the right of the mortgagor or owner debtor and the time periods provided in sections 628.5, 628.15 and 628.16 are reduced to sixty days.~~

If real property is not used for agricultural purposes, as defined in section 535.13, and is a single-family or two-family dwelling which is the residence of the ~~mortgagor or the owner debtor~~ at the time of foreclosure but the court finds that after foreclosure the dwelling has ceased to be the residence of the ~~mortgagor or the owner debtor~~ and if there are no junior creditors, the court shall order the period of redemption reduced to thirty days from the date of the court order and redemption is exclusively the right of the ~~mortgagor or the owner~~ during the thirty-day period. ~~If there is a junior creditor, the court shall order the redemption period reduced to sixty days. For the first thirty days redemption is the exclusive right of the debtor and the time periods provided in sections 628.5, 628.15 and 628.16 are reduced to forty-five days.~~

Sec. 59. Section 631.6, Code 1985, is amended to read as follows:

**631.6 FEES AND COSTS.**

All fees and costs required to be paid in small claims actions shall be paid in advance, and shall be assessed as costs in the action.

1. The docket fee for a small claims action is ten dollars. ~~Other fees imposed for small claims shall be the same as those required in regular actions in district court, four~~ Four dollars

of the docket fee shall remain be deposited in the county treasury for the use of the county court revenue distribution account established under section 602.8108 and six dollars of the fee shall be paid into the state treasury. Of the amount paid into the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state.

2. Postage charged for the mailing of original notices shall be the actual cost of the postage.

3. Fees for personal service by peace officers or other officials of the state shall be are the amounts specified by law.

4. Fees for service of notice on nonresidents shall be are as provided in section 617.3.

All fees and costs collected in small claims actions, other than the six dollars of the docket fee to be paid into the state treasury, shall be deposited in the court revenue distribution account established under section 602.8108, except that the fee specified in subsection 4 of this section shall be remitted to the secretary of state.

Sec. 60. Section 714.3, unnumbered paragraph 2, Code 1985, is amended to read as follows:

If money or property is stolen by two or more acts from the same person or location by two or more acts, or from different persons by two or more acts which occur in approximately the same location or time period so that the thefts are attributable to a single scheme, plan or conspiracy, these acts may be considered a single theft and the value may be the total value of all the property stolen.

Sec. 61. Section 714.8, subsection 3, Code 1985, is amended to read as follows:

3. Knowingly executes or tenders a false certification under penalty of perjury, false affidavit, or false certificate, which if the certification, affidavit, or certificate is required by law, or which is given in support of a claim for compensation, indemnification, restitution, or other payment.

Sec. 62. Section 805.8, subsection 2, paragraphs i, j and l, Code 1985, are amended to read as follows:

i. For violations involving failures to yield or to observe pedestrians and other vehicles under sections 321.257, subsections 1 and 4 subsection 2, 321.288, 321.298, 321.300, 321.307, 321.308, 321.313, 321.319, 321.320, 321.321, 321.329, 321.333, and 321.367, the scheduled fine is twenty dollars.

j. For violations by pedestrians and bicyclists under sections 321.236, subsection 10, 321.257, subsection 2, 321.325, 321.326, 321.328, 321.331, 321.332, 321.397 and 321.434, the scheduled fine is ten dollars.

l. For violations of traffic signs and signals, and for failure to obey an officer under sections 321.229, 321.236, subsections 2 and 6, 321.256, 321.257, subsections subsection 2 and 3, 321.258, 321.294, 321.304, subsection 3, 321.322, 321.341, 321.342, 321.343 and 321.415, the scheduled fine is twenty dollars.

Sec. 63. Section 805.9, subsection 6, Code 1985, is amended to read as follows:

6. The eight dollars in costs imposed by this section are the total costs collectible from a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from a defendant for the purposes specified in section 602.8105, subsection 1, paragraph "i", "j", or "t".

Sec. 64. Section 805.11, unnumbered paragraph 2, Code 1985, is amended by striking the unnumbered paragraph.

Sec. 65. Section 815.11, Code 1985, is amended to read as follows:

**815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.**

Costs incurred under sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, ~~815.12,~~ or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the supreme court for those purposes.

Sec. 66. Section 910.2, Code 1985, is amended to read as follows:

**910.2 RESTITUTION ORDERED BY SENTENCING COURT.**

In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities and, if the court so orders and to the extent that the offender is reasonably able to do so, to the county where conviction was rendered for court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution ~~payments are~~ is paid ~~to the county~~ for court costs, court-appointed attorney's fees or for the expense of a public defender. When the offender is not reasonably able to pay all or a part of the court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for any a governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 67. Sections 91.17, 91.18, and 602.11109, Code 1985, and 1984 Iowa Acts, chapter 1067, section 8, and chapter 1303, section 10, are repealed.

Approved May 24, 1985

**CHAPTER 196**  
**LIQUOR VIOLATIONS**  
*S.F. 295*

**AN ACT** relating to the violation of laws concerning alcoholic liquor and beer by establishing the penalty for transporting an open container of alcoholic liquor or beer in a motor vehicle as a simple misdemeanor, and by removing the duty of a liquor control licensee to break empty liquor bottles.

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

Section 1. Section 123.28, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway ~~any~~ an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage or beer with the intent to consume the alcoholic beverage or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. A person convicted of a violation of this paragraph is guilty of a simple misdemeanor.

Sec. 2. Section 123.33, Code 1985, is amended to read as follows:

**123.33 RECORDS.**

Every holder of a liquor control license shall keep a daily record of the gross receipts of the holder's business. ~~Each bottle emptied, except beer bottles, shall be broken immediately by the licensee or the licensee's agent into a container provided for that purpose.~~ The records ~~herein~~ required and the premises of the licensee shall be open to agents of the division of beer and liquor law enforcement of the department of public safety during normal business hours of the licensee.

Approved May 24, 1985

**CHAPTER 197**  
**JUDICIAL ORGANIZATION AND PROCEDURES**  
*S.F. 570*

**AN ACT** making corrections and other changes relating to court reorganization, court fees, court-imposed fines and costs and the suspension of motor vehicle licenses and the setoff of income tax refunds and rebates, administrative closures under chapter 601A, the ability to pay a criminal fine, the judicial retirement system, and other court procedures and making certain procedures retroactive.

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

Section 1. Section 2.42, subsection 16, Code 1985, is amended to read as follows:

16. Authority to review ~~proposed and delay the effective dates of~~ rules and forms submitted by the supreme court pursuant to section 602.4202.

Sec. 2. Section 14.21, unnumbered paragraph 2, Code 1985, is amended to read as follows:

~~Commencing July 1, 1977, the~~ The Code editor shall cause to be compiled, indexed and published in loose-leaf form the Iowa court rules, which shall consist of all rules of civil procedure, rules of criminal procedure, rules of appellate procedure, and supreme court rules. The Code editor, in consultation with the superintendent of printing, shall cause to be printed and distributed supplements to the compilation on or before the effective date of either new rules, or amendments to or the repeal of existing rules. All expenses incurred by the Code editor under this paragraph shall be defrayed under section 14.22. There shall be established a price for the compilation of rules, and a separate price for each supplement. The price of the compilation and of supplements shall represent the costs of compiling and indexing, the amounts charged for printing and distribution and a cost for labor determined jointly by the legislative council and rules review committee in consultation with the state printer. On request a single copy of each compilation and of each supplement shall be distributed free of charge to each of the persons or agencies referred to in section 18.97, subsections 1, 2, 5, 6, 7, 8 and 16.

Sec. 3. NEW SECTION. 321.210A SUSPENSION FOR FAILURE TO PAY FINE, PENALTY, SURCHARGE, OR COURT COSTS.

The department shall suspend the motor vehicle license of a person who, upon conviction of violating a law regulating the operation of a motor vehicle, has failed to pay the criminal fine or penalty, surcharge, or court costs, as follows:

1. Upon the failure of a person to timely pay the fine, penalty, surcharge, or court costs the clerk of the district court shall notify the person that if the fine, penalty, surcharge, or court costs remain unpaid after sixty days, the clerk will notify the department of the failure for purposes of instituting suspension procedures.

2. Upon the failure of a person to pay the fine, penalty, surcharge, or court costs within sixty days of receiving notice from the clerk of the district court as provided in subsection 1, the clerk shall report the failure to the department.



3. Upon receipt of a report of a failure to pay the fine, penalty, surcharge, or court costs from the clerk of the district court, the department shall in accordance with its rules, suspend the person's motor vehicle license until the fine, penalty, surcharge or court costs are paid, unless the person proves to the satisfaction of the clerk and the department that the person cannot pay the fine, penalty, surcharge, or court costs.

Sec. 4. Section 321.212, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. Except as provided in section 321.210A or 321.513 the department shall not suspend a license for a period of more than one year, except that a license suspended because of incompetency to drive a motor vehicle shall be suspended until the department receives satisfactory evidence that the former holder is competent to operate a motor vehicle and a refusal to reinstate ~~shall constitute~~ constitutes a denial of license within the provisions of section 321.215; upon revoking a license the department shall not grant an application for a new license until the expiration of one year after the revocation, unless another period is specified by law.

Sec. 5. Section 321A.17, subsection 5, Code 1985, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under the provisions of section 321.210A, 321.216 or 321.513 ~~shall~~ is not be required to maintain proof of financial responsibility under the provisions of this section.

Sec. 6. Section 331.506, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. Witness fees and mileage in trials of criminal actions prosecuted under county ordinance, as certified by the county attorney.

Sec. 7. Section 331.510, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 8. Section 421.17, Code 1985, is amended by adding the following new subsection after subsection 24 and renumbering the subsequent subsection:

NEW SUBSECTION. 25. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court as a criminal fine, civil penalty, surcharge, or court costs. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the clerk of the district court shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the clerk. However, only relevant information required by the clerk shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The clerk shall, at least quarterly and monthly if practicable, submit to the department for setoff the debts described in this subsection, which are at least fifty dollars.

d. Upon submission of a claim the department shall notify the clerk if the debtor is entitled to a refund or rebate and of the amount of the refund or rebate and the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the clerk shall send written notification to the debtor of the clerk's assertion of its rights to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the

assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, and the debtor's opportunity to give written notice of intent to contest the amount of the claim. The clerk shall send a copy of the notice to the department.

f. Upon the request of a debtor or a debtor's spouse to the clerk, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the clerk shall notify the department of the request to divide a joint income tax refund or rebate. The department shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department shall, after notice has been sent to the debtor by the clerk, set off the debt against the debtor's income tax refund or rebate. The department shall transfer at least quarterly and monthly if practicable, the amount set off to the clerk. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim. The clerk shall notify the debtor in writing upon completion of setoff.

Sec. 9. Section 421.17, subsection 25, Code 1985, is amended to read as follows:

~~25~~ 26. To provide that in the case of multiple claims to refunds or rebates filed under subsections 21, ~~and 23, and 25~~ that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, ~~and last next~~ priority shall be given to claims filed by the office of investigations under subsection 21, ~~and last priority shall be given to claims filed by a clerk of the district court under subsection 25.~~

Sec. 10. Section 601A.16, subsection 6, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not authorize administrative closures if an investigation is warranted.

Sec. 11. Section 602.1302, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A revolving fund is created in the state treasury for the payment of jury and witness fees and mileage by the department. The department shall deposit any reimbursements to the state for the payment of jury and witness fees and mileage in the revolving fund. Notwithstanding section 8.33, unencumbered and unobligated receipts in the revolving fund at the end of a fiscal year do not revert to the general fund of the state. The department shall on or before February 1 file a financial accounting of the moneys in the revolving fund with the legislative fiscal bureau. The accounting shall include an estimate of disbursements from the revolving fund for the remainder of the fiscal year and for the next fiscal year.

Sec. 12. Section 602.1303, subsections 7 and 8, Code 1985, are amended to read as follows:

7. A county or city shall pay the costs of its depositions and transcripts ~~and the court fees and costs provided by law in criminal actions prosecuted by that county or city~~ and shall pay the court fees and costs provided by law in criminal actions prosecuted by that county or city under county or city ordinance. A county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance.

8. A county shall pay the fees and expenses allowed under sections 815.2 and 815.3, ~~and shall pay the fees and expenses allowed under sections 815.5 and 815.6 with respect to witnesses for the prosecution.~~

Sec. 13. Section 602.4104, subsection 3, Code 1985, is amended to read as follows:

3. The supreme court shall prescribe rules to provide for the submission of cases to the entire bench or to the separate divisions. ~~These rules are subject to section 602.4202.~~

Sec. 14. Section 602.4202, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**602.4202 RULE-MAKING PROCEDURE.**

1. The supreme court shall submit a rule or form prescribed by the supreme court under section 602.4201 or pursuant to any other rule-making authority specifically made subject to this section to the legislative council and shall at the same time report the rule or form to the chairpersons and ranking members of the senate and house committees on judiciary. The legislative service bureau shall make recommendations to the supreme court on the proper style and format of rules and forms required to be submitted to the legislative council under this subsection.

2. A rule or form submitted as required under subsection 1 takes effect sixty days after submission to the legislative council, or at a later date specified by the supreme court, unless the legislative council, within sixty days after submission and by a majority vote of its members, delays the effective date of the rule or form to a date as provided in subsection 3.

3. The effective date of a rule or form submitted during the period of time beginning February 15 and ending February 14 of the next calendar year may be delayed by the legislative council until May 1 of that next calendar year.

4. A rule or form submitted as required under subsection 1 and effective on or before July 1 shall be bound with the Acts of the general assembly meeting in regular session in the calendar year in which the July 1 falls.

5. If the general assembly enacts a bill changing a rule or form, the general assembly's enactment supersedes a conflicting provision in the rule or form as submitted by the supreme court.

Sec. 15. Section 602.6603, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. If a regularly appointed court reporter becomes disabled, or if a vacancy occurs in a regularly appointed court reporter position, the judge may appoint a competent uncertified shorthand reporter for a period of time of up to six months, upon verification by the chief judge that a diligent but unsuccessful search has been conducted to appoint a certified shorthand reporter to the position and, in a disability case, that the regularly appointed court reporter is disabled. An uncertified shorthand reporter shall not be reappointed to the position unless the reporter becomes a certified shorthand reporter within the period of appointment under this subsection.

Sec. 16. Section 602.6603, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 8.** If a judge dies, resigns, retires, is removed from office, becomes disabled, or fails to be retained in office and the judicial vacancy is eligible to be filled, a court reporter appointed by the judge is entitled to serve as a court reporter, as directed by the chief judge or the chief judge's designee, until the successor judge appoints a successor court reporter. The court reporter shall be paid the reporter's regular salary during the period of time until a successor court reporter is appointed or until the currently appointed court reporter is reappointed.

Sec. 17. Section 602.8102, subsection 45, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

45. Report monthly to the office for planning and programming the following information related to each district court conviction for, acquittal of, or dismissal of a felony, an aggravated misdemeanor, or a serious misdemeanor:

a. The name of the convicted offender or defendant.

b. The statutory citation and character of the offense of which the offender was convicted or the defendant charged.

c. The sentence imposed on the convicted offender.

Sec. 18. Section 602.8102, Code 1985, is amended by adding the following new subsection after subsection 50:

NEW SUBSECTION. 50A. Assist the department of transportation in suspending, pursuant to section 321.210A, the motor vehicle licenses of persons who fail to timely pay criminal fines or penalties, surcharges, or court costs related to the violation of a law regulating the operation of a motor vehicle.

Sec. 19. Section 602.8102, Code 1985, is amended by adding the following new subsection after subsection 58:

NEW SUBSECTION. 58A. Assist the department of revenue in setting off against debtors' income tax refunds or rebates under section 421.17, subsection 25, debts which are due, owing, and payable to the clerk of the district court as criminal fines, civil penalties, surcharges, or court costs.

Sec. 20. Section 602.8105, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. For filing and docketing a petition other than for modification of a dissolution decree filed within one hundred eighty days of the date of the entering of the dissolution decree, or an appeal, or writ of error and docketing them, thirty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and thirty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 21. Section 602.8105, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. For payment in advance of various services and docketing procedures, excluding those for small claims actions and small claims actions on appeal and simple misdemeanor actions and simple misdemeanor actions on appeal, twenty-five dollars.

Sec. 22. Section 602.8105, subsection 1, paragraph j, Code 1985, is amended to read as follows:

j. In criminal cases, the same fees for the same services as in civil cases, to be paid by the county or city initiating, which has the duty to prosecute the criminal action, payable as provided in section 602.8109. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city initiating which has the duty to prosecute the criminal action to the extent necessary for reimbursement for fees paid. However, the fees which are payable by the county to the clerk of the district court for services rendered in criminal actions prosecuted under state law and the court costs taxed in connection with the trial of those criminal actions or appeals from the judgments in those criminal actions are waived.

Sec. 23. Section 602.8105, subsection 1, Code 1985, is amended by adding the following new lettered paragraphs and relettering the subsequent paragraph:

NEW LETTERED PARAGRAPH. p. For filing and docketing a transcript of judgment from another county, two dollars.

NEW LETTERED PARAGRAPH. q. For entering a judgment by confession, two dollars.

NEW LETTERED PARAGRAPH. r. For the administrative costs of collecting and distributing support payments payable to the clerk of the district court under section 598.22, to be paid annually by the person obligated to pay the support and to be billed and collected by the clerk separately from, in addition to, and after both current and accrued support payments have been collected by the clerk, twenty-five dollars.

Sec. 24. Section 602.8106, subsection 1, Code 1985, is amended to read as follows:

1. Notwithstanding section 602.8105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor ~~shall be eight is twenty dollars, provided that except that the filing and docketing of a complaint or information for a nonscheduled simple misdemeanor under chapter 321 is fifteen dollars.~~ However, a fee for filing and docketing a complaint or information shall not be collected in cases of overtime parking.

Sec. 25. Section 602.8106, subsection 4, Code 1985, is amended to read as follows:

4. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

a. ~~One-half~~ Two fifths shall be remitted monthly by the clerk to the treasurer of state to be credited to the general fund of the state.

b. ~~One-fourth~~ Three tenths shall be deposited in the court revenue distribution account established under section 602.8108.

c. ~~One-fourth~~ Three tenths shall be remitted monthly by the clerk to the treasurer of state to be credited to the judicial retirement fund established under section 602.9104.

Sec. 26. Section 602.9103, Code 1985, is amended to read as follows:

602.9103 NOTICE BY JUDGE IN WRITING APPLICATION.

~~This Except as provided in section 602.11115, this article shall not apply applies to any judge of the municipal, superior, or district court, including a district associate judge, or a judge of the court of appeals or of the supreme court, until the judge gives notice in writing, while serving as a judge, to the state comptroller and treasurer of state, of the judge's purpose to come within its purview. Judges of the municipal and superior courts shall at the same time give a copy of such notice to the city treasurer and county auditor within the district of such court. Such notice shall be given within one year after the effective date hereof or within one year after any date on which the judge takes oath of office as such judge.~~

\*Sec. 27. Section 602.9104, subsection 1, Code 1985, is amended to read as follows:

1. Each judge coming within the purview of this article shall, on or before retirement, pay to the court administrator for deposit with the treasurer of state to the credit of a fund to be known as the "judicial retirement fund", hereinafter called the "fund", a sum equal to four percent of the judge's basic salary for services as such judge for the total period of service as a judge of a municipal, superior, district or supreme court, or the court of appeals, including district associate judges, before the date of said notice July 1, 1985, and on and after the date of the notice July 1, 1985 there shall be deducted and withheld from the basic salary of each judge coming within the purview of this article a sum equal to ~~four percent~~ the following percentages of such basic salary. Provided that, to vary according to the years of service as a judge of the municipal, superior, or district court, including a district associate judge, or a judge of the court of appeals or of the supreme court, or as a judge of any combination of the courts: for less than seven years of service, seven percent; for seven through twelve years of service, six percent; for thirteen through eighteen years of service, five percent; and for more than eighteen years of service, four percent.

PARAGRAPH DIVIDED. However, the maximum amount which any judge shall be required to contribute for past service shall not exceed for municipal or superior or district associate judges thirty-five hundred dollars, for district judges four thousand dollars, for court of appeals judges four thousand five hundred dollars, and for supreme court judges five thousand dollars.\*

Sec. 28. Section 602.9109, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Annuities granted under this article are exempt from taxation either as income or as personal property.

Sec. 29. Section 602.11101, subsection 4, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Until July 1, 1985 the county shall remain responsible for the compensation of juvenile court referees. Effective July 1, 1985 the state shall assume the responsibility for the compensation of juvenile court referees.

Sec. 30. Section 602.11101, subsection 5, Code 1985, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county shall remain responsible for the compensation of and operating costs for court employees not presently designated for state financing and for miscellaneous costs of the judicial department related to furnishings, supplies, and equipment purchased, leased, or maintained for the use of judicial officers, referees, and their staff. Effective July 1, 1986 the state shall assume the responsibility for the compensation of and operating costs for court employees presently designated for state financing and for miscellaneous costs of the judicial department related to furnishings, supplies, and equipment purchased, leased, or maintained for the use of judicial officers, referees, and their staff. However, the county shall at all times remain responsible for the provision of suitable courtrooms, offices, and other physical facilities pursuant to section 602.1303, subsection 1, including paint, wall covering, and fixtures in the facilities.

NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county shall remain responsible for the compensation of and operating costs for probate referees and judicial hospitalization referees and their staffs. Effective July 1, 1986 the state shall assume the responsibility for the compensation of and operating costs for probate referees and judicial hospitalization referees and their staffs.

NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county shall remain responsible for necessary fees and costs related to certain court reporters. Effective July 1, 1986 the state shall assume the responsibility for necessary fees and costs related to certain court reporters.

Sec. 31. Section 602.11101, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The county shall remain responsible for the court-ordered costs of conciliation procedures under section 598.16.

Sec. 32. Section 602.11102, Code 1985, is amended to read as follows:

602.11102 ACCRUED EMPLOYEE RIGHTS.

1. Persons who were paid salaries by the counties or judicial districts immediately prior to becoming state employees as a result of this Act chapter shall not forfeit accrued vacation, accrued sick leave, or longevity, except as provided in this section.

2. As a part of its rule-making authority under section 602.11101, the supreme court, after consulting with the state comptroller, shall prescribe rules to provide for the following:

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\*Item veto; see message at end of this Act

a. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued vacation days that was credited to the person as a county employee as of the end of the day prior to becoming a state employee.

b. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued days of sick leave that was credited to the person as a county employee as of the end of the day prior to becoming a state employee. However, the number of days of sick leave credited to a person under this subsection and eligible to be taken when sick or eligible to be received upon retirement shall not respectively exceed the maximum number of days, if any, or the maximum dollar amount as provided in section 79.23 that state employees generally are entitled to accrue or receive according to laws and rules in effect as of the date the person becomes a state employee.

c. Commencing on the date of becoming a state employee, each person referred to in subsection 1 is entitled to claim the person's most recent continuous period of service in full-time county employment as full-time state employment for purposes of determining the number of days of vacation which the person is entitled to earn each year. The actual vacation benefit, including the limitation on the maximum accumulated vacation leave, shall be determined as provided in section 79.1 according to laws and rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county employee.

d. Notwithstanding paragraphs "b" and "c", for the period beginning July 1, 1984, and ending June 30, 1986, court reporters who become state employees as a result of this Aet chapter are not subject to the sick leave and vacation accrual limitations generally applied to state employees. However, court reporters are subject to the maximum dollar limitation upon retirement as provided in section 79.23.

Sec. 33. Section 602.11103, Code 1985, is amended to read as follows:

602.11103 LIFE, AND HEALTH, AND DISABILITY INSURANCE.

Persons who were covered by county employee life insurance and accident and health insurance plans prior to becoming state employees as a result of this Aet chapter shall be permitted to apply prior to becoming state employees for life insurance and health and accident insurance plans that are available to state employees so that those persons do not suffer a lapse of insurance coverage as a result of this Aet chapter. The supreme court, after consulting with the state comptroller, shall prescribe rules and distribute application forms and take other actions as necessary to enable those persons to elect to have insurance coverage that is in effect on the date of becoming state employees. The actual insurance coverage available to a person shall be determined by the plans that are available to state employees, irrespective of any greater or lesser benefits as a county or judicial district employee.

Commencing on the date of becoming a state employee, each person referred to in this section is entitled to claim the person's most recent continuous period of service in full-time county or judicial district employment as full-time state employment for purposes of determining disability benefits as provided in section 79.20 according to rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county or judicial district employee.

Sec. 34. Section 602.11108, Code 1985, is amended to read as follows:

602.11108 COLLECTIVE BARGAINING.

A person who becomes a state employee as a result of this Aet chapter is a public employee, as defined in section 20.3, subsection 3, for purposes of chapter 20. The person may bargain

collectively on and after July 1, 1983 as provided by law for a court employee. However, if the person is subject to a collective bargaining agreement negotiated prior to July 1, 1983, the person is entitled to the rights and benefits obtained by the person pursuant to that contract after July 1, 1983, until that contract expires. If the person is subject to a collective bargaining agreement negotiated by a public employer other than the state court administrator on or after July 1, 1983, the person is not entitled to any rights or benefits obtained by the person pursuant to that contract after becoming a state employee.

Commencing one year prior to each category of employees becoming state employees as a result of this chapter, the state court administrator shall assume the position of public employer of those employees of that category for the sole purpose of negotiating a collective bargaining agreement with those employees to be effective upon the date those employees became state employees as a result of this chapter.

Sec. 35. Section 602.11110, Code 1985, is amended to read as follows:

**602.11110 JUDGESHIPS FOR ELECTION DISTRICTS 5A AND 5C.**

As soon as practicable after January 1, 1985, the supreme court administrator shall recompute the number of judgeships to which judicial election districts 5A and 5C are entitled. Notwithstanding section 602.6201, subsection 2, the seventeen incumbent district judges in judicial election district 5A on December 31, 1984 may reside in either judicial election district 5A or 5C beginning January 1, 1985. The supreme court administrator shall apportion to judicial election district 5C those incumbent district judges who were appointed to replace district judges residing in Polk county or who were appointed to fill newly created judgeships while residing in Polk county. The incumbent district judges residing in Polk county on January 1, 1985 who are not so apportioned to judicial election district 5C shall be apportioned to judicial election district 5A but shall be reapportioned to judicial election district 5C, in the order of their seniority as district judges, as soon as the first vacancies occur in judicial election district 5C due to death, resignation, retirement, removal, or failure of retention. Such a reapportionment constitutes a vacancy in judicial election district 5A for purposes of section 602.6201. Notwithstanding section 602.6201, subsection 2, the seventeen incumbent district judges in judicial election district 5A on December 31, 1984 shall stand for retention in the judicial election district to which the district judges are apportioned or reapportioned under this section. Commencing on January 1, 1985, vacancies within judicial election districts 5A and 5C shall be determined and filled under section 602.6201, subsections 4 through 8. For purposes of the recomputations, the supreme court administrator shall determine the average case filings for the latest available three-year period by reallocating the actual case filings during the three-year period to judicial election districts 5A and 5C as if they existed throughout the three-year period.

Sec. 36. Section 611.21, Code 1985, is amended to read as follows:

**611.21 CIVIL REMEDY NOT MERGED IN CRIME.**

The right of civil remedy is not merged in a public offense and is not restricted for other violation of law, but may in all cases be enforced independently of and in addition to the punishment of the latter former.

Sec. 37. Section 631.6, subsection 1, Code 1985, is amended to read as follows:

1. The docket fee for a small claims action is ten eleven dollars. Other fees imposed for small claims shall be the same as those required in regular actions in district court, four Five dollars of the docket fee shall remain be deposited in the county treasury for the use of the county court revenue distribution account established under section 602.8108 and six dollars of the fee shall be paid into the state treasury. Of the amount paid into the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state.



Sec. 38. Section 631.6, unnumbered paragraph 2, Code 1985, is amended to read as follows:

All fees and costs collected in small claims actions, other than the six dollars of the docket fee to be paid into the state treasury, shall be deposited in the court revenue distribution account established under section 602.8108, except that the fee specified in subsection 4 of this section shall be remitted to the secretary of state.

Sec. 39. Section 666.6, Code 1985, is amended to read as follows:

666.6 REPORT OF FORFEITED BONDS.

The clerk of the district court shall make an annual report in writing to the supreme court on the first Monday in treasurer of state and the state court administrator no later than January 15 of all forfeited recognizances in the clerk's office; of all fines, penalties, and forfeitures imposed in the district court; in what cause or proceeding, when and for what purpose, against whom and for what amount, rendered; whether the fines, penalties, forfeitures, and recognizances which have been paid, remitted, canceled, or otherwise satisfied; if so, when, how, and in what manner, and if not been paid, remitted, canceled, or otherwise satisfied, what steps have been taken to enforce the collection of the fines, penalties, forfeitures and recognizances during the previous calendar year.

The report shall be full, true, and complete with reference to the matters contained in the report and all things required by this section to be reported, and the report shall be under oath. A clerk failing to make the report as required by this section is guilty of a simple misdemeanor.

Sec. 40. Section 805.6, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. The commissioner of public safety and the state conservation director, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. The court costs in parking violation cases are eight dollars per court appearance. The court costs in scheduled violation cases where a court appearance is not required are ten dollars. The court costs in scheduled violation cases where a court appearance is required are fifteen dollars. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the uniform citation and complaint in accordance with section 321.207 when applicable.

PARAGRAPH DIVIDED. The uniform citation and complaint shall contain spaces for the parties' names; the address of the alleged offender; the registration number of the offender's vehicle; the information required by section 805.2; a promise to appear as provided in section 805.3 and a place where the cited person may sign the promise to appear; a list of the scheduled fines prescribed by section 805.8, either separately or by group, and a statement ~~that~~ of the court costs payable in scheduled ~~offense~~ violation cases, whether or not a court appearance is required or is demanded, ~~are eight dollars~~; a brief explanation of sections 805.9 and 805.10; and a space where the defendant may sign an admission of the violation when permitted by section 805.9; and the uniform citation and complaint shall require that the defendant appear before a court at a specified time and place. The uniform citation and complaint also may contain a space for the imprint of a credit card, and may contain any other information which the commissioner of public safety and the state conservation director may determine.

Sec. 41. Section 805.6, subsection 1, paragraph c, subparagraphs (1), (2), and (3), Code 1985, are amended to read as follows:

(1) If the offense is one to which a scheduled fine is applicable, an amount equal to one and one-half times the scheduled fine plus ~~eight dollars~~ court costs.

(2) If the violation charged involved or resulted in an accident or injury to property and the total damages are less than two hundred fifty dollars, the amount of fifty dollars ~~and eight dollars~~ plus court costs.

(3) If the violation is for any offense for which a court appearance is mandatory, the amount of one hundred dollars plus ~~eight dollars~~ court costs.

Sec. 42. Section 805.9, Code 1985, is amended to read as follows:

#### 805.9 ADMISSION OF SCHEDULED VIOLATIONS.

1. In cases of scheduled violations, the defendant, before the time specified in the citation and complaint for appearance before the court, may sign the admission of violation on the citation and complaint and deliver or mail a copy of the citation and complaint, together with the minimum fine for the violation, plus ~~eight dollars~~ court costs, to a scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter 321, forward a copy of the citation and complaint and admission to the department of transportation as required by section 321.207. In this case the defendant is not required to appear before the court. The admission constitutes a conviction.

2. A defendant charged with a scheduled violation by information may obtain two copies of the information from the court and, before the time the defendant is required to appear before the court, deliver or mail the copies, together with the defendant's admission, fine, and ~~eight dollars~~ court costs, to the scheduled violations office in the county. The procedure, fine, and costs are the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

3. When section 805.8 and this section are applicable but the officer does not deem it advisable to release the defendant and no court in the county is in session:

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing the person mail the citation and complaint, admission, and minimum fine, together with ~~eight dollars~~ court costs, to a traffic violations office in the county, in an envelope furnished by the officer. The admission constitutes a conviction and judgment in the amount of the scheduled fine plus ~~eight dollars~~ court costs. The officer may allow the defendant to use a credit card pursuant to rules adopted under section 805.14 by the department of public safety or to mail a check in the proper amount in lieu of cash. If the check is not paid by the drawee for any reason, the defendant may be held in contempt of court. The officer shall advise the defendant of the penalty for nonpayment of the check.

b. If the defendant does not comply with paragraph "a" ~~of this subsection~~, the officer may release the defendant upon observing the defendant mail to a court in the county the citation and complaint and one and one-half times the minimum fine together with ~~eight dollars~~ court costs, or in lieu of one and one-half times the fine and the court costs, a guaranteed arrest bond certificate as provided in section 321.1, subsection 70, as bail together with the following statement signed by the defendant:

"I agree that either (1) I will appear pursuant to this citation or (2) if I do not appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of one and one-half times the scheduled fine plus eight dollars court costs."

c. If the defendant does not comply with paragraph "a" or "b", or when section 804.7 is applicable, the officer may arrest and confine the defendant if authorized by the latter section, and proceed according to chapter 804.

4. A defendant who admits a scheduled violation may appear before court. The procedure, costs, and fine, without suspension of the fine, after the hearing are the same as in the traffic violations office.

5. A defendant charged with a scheduled violation who does not fully comply with subsection 1, 2, 3, or 4 of this section before the time required to appear before the court must, at that time, appear before the court. If the defendant admits the violation, the procedure, costs, and fine, without suspension of the fine, after the hearing are the same before the court as before the traffic violations office with eight dollars court costs, and are without prejudice, when applicable, to proceedings under section 321.487.

6. The eight dollars in court costs imposed by this section are the total costs collectible from a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from a defendant for the purposes specified in section 602.8105, subsection 1, paragraph "i", "j", or "t".

Sec. 43. Section 815.13, Code 1985, is amended to read as follows:

#### 815.13 PAYMENT OF PROSECUTION COSTS.

The county or city which has the duty to prosecute a criminal action shall pay the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, and in criminal actions prosecuted by the county or city under county or city ordinance the fees that are payable to the clerk of the district court for services rendered, and the court costs taxed in connection with the trial of the action or appeals from the judgment. The county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed, in which case the state shall pay the witness fees and mileage in cases prosecuted under state law.

Sec. 44. Section 907.4, Code 1985, is amended to read as follows:

#### 907.4 DEFERRED JUDGMENT DOCKET.

Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record ~~thereof~~ of the deferment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section ~~shall constitute~~ is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates, and county attorneys requesting information pursuant to this section or the designee of ~~such~~ a justice, judge, magistrate, or county attorney.

Sec. 45. NEW SECTION. 909.7 ABILITY TO PAY FINE PRESUMED.

A defendant is presumed to be able to pay a fine. However, if the defendant proves to the satisfaction of the court that the defendant cannot pay the fine, the defendant shall not be sentenced to confinement for the failure to pay the fine.

Sec. 46. REPEALS.

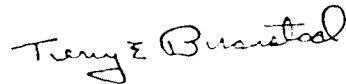
1. Sections 247.29 through 247.31, Code 1985, are repealed.

Sec. 47. JUDICIAL RETIREMENT ACTUARIAL VALUATION. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund for the fiscal year beginning July 1, 1984 and for subsequent fiscal years. Following the actuarial valuation, the court administrator shall determine the condition of the system and shall report the system's condition and the court administrator's recommendations regarding the system to the general assembly by January 15, 1986. The cost of the actuarial valuation shall be paid from the judicial retirement fund.

Sec. 48. The third new unnumbered paragraph of section 30 of this Act applies retroactively to July 1, 1983.

Sec. 49. Sections 8, 9, and 19 of this Act take effect on July 1, 1986. The state court administrator shall prescribe rules to coordinate and consolidate the offset procedures required to forward necessary offset information to the department of revenue.

Approved May 24, 1985, except the item which I hereby disapprove and which is designated as section 27 which is bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor

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

Dear Madam Secretary:

I hereby transmit Senate File 570, an act making corrections and other changes relating to court reorganization, court fees, court-imposed fines and costs and the suspension of motor vehicle licenses and the setoff of income tax refunds and rebates, administrative closures under chapter 601A, the ability to pay a criminal fine, the judicial retirement system, and other court procedures and making certain procedures retroactive.

Senate File 570 is approved May 24, 1985, with the exception of Section 27, which I hereby disapprove.

Senate File 570 makes a number of changes in our court system, including adjusting court fees and modifying the judicial retirement system. Specifically, this bill provides for an increase in certain court fees and fines and applies a portion of those additional revenues to the judicial retirement system.

At the present time, the judicial retirement system has an unfunded liability of over \$700,000. The additional revenues derived from the fee adjustments in Senate File 570 will eliminate that liability and will make the retirement system actuarially sound. I am pleased that the General Assembly has acted to make that fund secure.

However, Senate File 570 also requires certain judges to pay a larger percentage of their salaries to the judicial retirement system. Those judges with less than seven years of experience must pay an additional three percent of their salaries into the fund; those with seven to twelve years are required to contribute two percent more; and judges with thirteen to eighteen years of experience must contribute an additional one percent of their salaries. While there may be a need in the future to increase the pension contribution rate, the increase required in Senate File 570 is unfair, unwise and untimely.

Separate legislation passed by the General Assembly froze all judicial salaries for the next fiscal year. This salary freeze, in combination with the required increase in judicial contributions to the retirement fund, will effectively cut the take-home pay of many of our judges. This is an appropriate time to limit pay increases for those on the state payroll; I recommended a salary freeze for legislators and the Governor for the next two years. But it is unfair to single out judges for a cut in pay.

This reduction would hit hardest those judges who are new to the bench. As a result, it could adversely affect our ability to attract top flight attorneys to judicial positions. I am concerned that justice would be the ultimate loser if Section 27 of Senate File 570 were to become law.

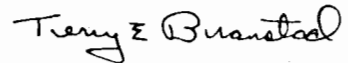
Finally, an actuarial study of the judge's pension system will be conducted this summer. The General Assembly should wait for the results of that study before making major changes in

the retirement system. Moreover, no additional pension contributions from judges are needed at this time to make the system actuarially sound.

In short, Section 27 of Senate File 570 unfairly singles out judges for a cut in pay. Such a reduction could harm the quality of justice in Iowa and is not needed to ensure the actuarial soundness of the judicial retirement system.

For the above reasons, I respectfully disapprove of this section in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 570 are hereby approved as of this date.

Very truly yours,

A handwritten signature in cursive script that reads "Terry E. Branstad".

Terry E. Branstad  
Governor

**CHAPTER 198**  
**CORRECTIONS TO SENATE FILE 395**  
*S.F. 583*

**AN ACT** relating to the imposition of certain taxes by imposing the barrel tax and the gallonage tax to beer and wine manufactured in Iowa and correcting references to an additional real property tax under the local option tax provisions of Senate File 395.

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

Section 1. Section 123.56, subsection 1, 1985 Iowa Acts, Senate File 395, section 49, is amended to read as follows:

1. Subject to rules of the department, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. Sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer which is no closer than five miles from an existing native winery. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit. ~~Sales of native wines by the manufacturer of the native wines are exempt from the wine gallonage tax imposed under section 123.183.~~

Sec. 2. Section 123.143, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3. Barrel tax revenues collected on beer manufactured in this state from a class "A" permittee which owns and operates a brewery located in Iowa shall be credited to the barrel tax fund hereby created in the office of the treasurer of state.

Sec. 3. Section 123.146, Code 1985 is repealed.

Sec. 4. Section 123.183, 1985 Iowa Acts, Senate File 395, section 74, is amended to read as follows:

Sec. 5.\* **NEW SECTION. 123.183 WINE GALLONAGE TAX.**

In addition to the annual permit fee to be paid by each class "A" wine permittee, there shall be levied and collected from each class "A" wine permittee on all wine manufactured for sale and sold in this state at wholesale and on all wine imported into this state for sale at wholesale and sold in this state at wholesale, a tax of one dollar and fifty cents for every wine gallon and a like rate for the fractional parts of a wine gallon. A tax shall not be levied or collected on wine manufactured in this state, or on wine sold by one class "A" wine permittee to another class "A" wine permittee. Revenue derived from the wine tax collected on wine manufactured for sale and sold in this state shall be deposited in the gallonage tax fund hereby created in the office of the treasurer of state. All other revenue derived from the wine tax shall be deposited in the liquor control fund established by section 123.53 and shall be transferred by the state comptroller to the general fund of the state. The price of wine sold or offered for sale in state liquor stores which was not purchased by the department from a class "A" wine permittee shall include a markup over the wholesale price at least equal to the tax levied under this section.

\*According to enrolled Act

Sec. 6. Section 422B.1, subsections 1 and 9, 1985 Iowa Acts, Senate File 395, section 89, are amended to read as follows:

1. A city or a county may impose by ordinance of the city council or the board of supervisors local option taxes authorized by ~~sections 422B.1 through 422B.11~~ this chapter, subject to this section.

9. Local option taxes authorized to be imposed as provided in ~~sections 422B.1 through 422B.11~~ this chapter are a local earnings tax, a local sales and services tax, and a local vehicle tax. The rate of the taxes shall be up to four percent in increments of one percent for the earnings tax, and in increments of one dollar per vehicle for a vehicle tax all as set by the governing body of the city or county seeking to impose the earnings tax or as set on the petition seeking to impose the vehicle tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body.

Sec. 7. Section 422B.11, 1985 Iowa Acts, Senate File 395, section 99, is repealed.

Approved May 28, 1985

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**CHAPTER 199**  
**PORK CHECK-OFF**  
*S.F. 581*

**AN ACT** providing for the promotion of the pork industry in this state by creating an Iowa pork producers council, authorizing an assessment on the sale of porcine animals, and imposing penalties.

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

Section 1. **NEW SECTION. 182.1 DEFINITIONS.**

As used in this chapter:

1. "First purchaser" means a person who buys porcine animals from a producer in the first instance.
2. "Porcine animals" means swine raised for slaughter, feeder pigs, or swine seedstock.
3. "Producer" means a person engaged in this state in the business of producing and marketing porcine animals in the previous calendar year.
4. "Pork" means porcine animals and all parts of porcine animals.
5. "Market development" means research and education programs directed at better and more efficient production, marketing, and utilization of pork; public relations and other promotion techniques for the maintenance of existing markets for pork, including but not limited to contributions to organizations working toward the purposes of this subsection; development of new or larger markets for pork both domestic and foreign, and adoption, prevention, modification, or elimination of trade barriers which bear on the flow of pork in commercial channels.
6. "Assessment" means an excise tax on the sale of porcine animals as provided in this chapter.



7. "Secretary" means the secretary of agriculture.

8. "Iowa pork producers council" or "council" means the body established under section 182.2.

**Sec. 2. NEW SECTION. 182.2 IOWA PORK PRODUCERS COUNCIL.**

The Iowa pork producers council is established. The council shall consist of the immediate past president and the current president of the Iowa pork producers association, two members appointed by the Iowa pork producers association from its board of directors, and three pork producers appointed by the secretary, one from each of three districts of the state designated by the secretary. The Iowa pork producers association shall nominate three producers from each of these three districts. The secretary, the dean of the college of agriculture of Iowa state university of science and technology, and the state veterinarian, or their designees, shall serve on the council as nonvoting ex officio members.

The immediate past president of the Iowa pork producers association shall serve as chair of the council.

**Sec. 3. NEW SECTION. 182.3 TERMS.**

The immediate past president and the current president of the Iowa pork producers association shall serve as long as they hold those respective offices. The other voting members shall serve terms of three years; and shall not serve for more than two complete consecutive terms. On the initial council, one voting member shall serve an initial term of one year, two shall serve initial terms of two years, and two shall serve initial terms of three years.

**Sec. 4. NEW SECTION. 182.4 VACANCIES.**

A vacancy in the office of either the immediate past president or current president of the Iowa pork producers association shall be filled by the president-designate of the Iowa pork producers association. The council shall by appointment fill an unexpired term if a vacancy occurs in any other voting membership.

**Sec. 5. NEW SECTION. 182.5 DUTIES, OBJECTS AND POWERS OF THE COUNCIL.**

The council shall:

1. Aid in the promotion of the pork industry of the state.
2. Make an annual report of its proceedings and expenditures to the secretary.
3. Elect a secretary and other officers it deems advisable.
4. Administer and enforce this chapter, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purposes and requirements of this chapter.
5. Hire and discharge employees and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.
6. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
7. Report alleged violations of this chapter to the attorney general or appropriate county attorney.
8. Keep accurate books, records, and accounts of all its dealings.
9. Receive, administer, disburse and account for, in addition to the funds received from the assessment provided in this chapter, other funds voluntarily contributed to the council for the purpose of promoting the pork industry.

The council may enter into arrangements with persons purchasing Iowa produced pork outside Iowa, for collection of the assessment from such buyers.

The council is a state agency only for the purposes of chapters 21 and 22. Chapter 17A does not apply to the council.

**Sec. 6. NEW SECTION. 182.6 ASSESSMENT.**

The council shall make an assessment of not less than point zero zero two nor more than point zero zero three of the gross sale price of all porcine animals. The assessment shall be point zero zero two five of the gross sale price of porcine animals until consent to an assessment has been given through the initial referendum referred to in this chapter. After approval of the initial referendum, the rate of assessment shall be determined by the council. The assessment shall be made at the time of delivery of the animals for sale, and shall be deducted by the first purchaser from the price paid to the producer. The first purchaser, at the time of sale, shall make and deliver to the producer an invoice for each purchase showing the names and addresses of the producer and the first purchaser, the number and kind of animals sold, the date of sale, and the assessment made on the sale.

Assessments shall be paid to the Iowa pork producers council by first purchasers at a time prescribed by the council, but not later than the last day of the month following the month in which the animals were purchased.

**Sec. 7. NEW SECTION. 182.7 FUND.**

Assessments imposed under this chapter paid to and collected by the Iowa pork producers council shall be deposited in the pork promotion fund which is established in the office of the treasurer of state.

From the moneys collected, the council shall first pay the costs of referendums held pursuant to this chapter. Of the funds remaining at least ten percent shall be remitted to the national livestock and meat board and the pork industry group thereof, at least twenty-five percent shall be remitted to the national pork producers council, and at least fifteen percent shall be remitted to the Iowa pork producers association in the proportion the committee determines, for use by recipients in a manner not inconsistent with market development as defined in section 182.1. Moneys remaining in the fund shall be spent as found necessary by the council to further carry out the provisions and purposes of this chapter.

The pork promotion fund shall be subject at all times to warrants by the state comptroller, drawn upon the written requisition of the chair of the council attested to by its secretary, for payment of expenditures of the council, which shall, at no time, exceed the amount deposited in the fund.

**Sec. 8. NEW SECTION. 182.8 REFUND OF ASSESSMENT.**

A producer from whom the assessment has been deducted, upon written application filed with the council within thirty days after its collection, shall have that amount refunded by the council. Application forms shall be given by the council to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for a refund by a producer shall have attached a proof of assessment deducted. The proof of assessment deducted shall be in the form of the original purchase invoice by the first purchaser. The council shall have thirty days from the date the application for refund is received to remit the refund to the producer.

**Sec. 9. NEW SECTION. 182.9 REFERENDUM.**

At a time designated by the council within eighteen months after the effective date of this Act, the secretary shall conduct a referendum under administrative procedures prescribed by the department of agriculture.

Upon signing a statement certifying to the secretary that the person is a bona fide producer as defined in this chapter, each producer is entitled to one vote in each referendum. The secretary shall determine the qualification of producers under this section.

The secretary shall count and tabulate the ballots filed during the referendum within thirty days of the close of the referendum. If from the tabulation the secretary determines that a majority of the total number of producers voting in the referendum favors the assessment, the assessment provided for in the referendum shall be levied. The ballots cast pursuant to this section constitute complete and conclusive evidence for use in determinations made by the secretary under this chapter.

The secretary shall hold subsequent referendums on request of ten percent or more of the number of producers eligible to vote, to determine whether the producers favor the termination or suspension of the assessment. The secretary shall suspend or terminate collection of the assessment within six months after the secretary determines that suspension or termination of the assessment is favored by a majority of the producers voting in the referendum, and shall terminate the assessment in an orderly manner as soon as practicable after the determination.

Sec. 10. NEW SECTION. 182.10 EXPENSES OF MEMBERS.

The members of the council shall receive forty dollars for each day spent on official business of the council, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in council activity.

Sec. 11. NEW SECTION. 182.11 AUDIT.

Moneys collected under authority of this chapter shall be supervised by a certified public accountant employed by the council using generally accepted accounting principles and shall be subject to audit by the auditor of state.

Sec. 12. NEW SECTION. 182.12 EXAMINATION OF BOOKS.

Persons subject to this chapter and first purchasers shall furnish any information needed to enable the council and secretary to carry out the provisions of this chapter. For the purpose of ascertaining the correctness of any information given to the council or the secretary under this chapter, the secretary may examine books, papers, records, copies of tax returns, accounts, correspondence, contracts, or other documents and memoranda the secretary deems relevant which are in the control of any person and which are not otherwise confidential as provided by law. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this chapter.

Sec. 13. NEW SECTION. 182.13 MISDEMEANORS.

A person who violates or assists in the violation of any of the provisions of this chapter is guilty of a simple misdemeanor.

Sec. 14. NEW SECTION. 182.14 INFLUENCING LEGISLATION.

Neither council members nor employees of the council shall attempt in any manner to influence legislation affecting any matters pertaining to the council's activities. No portion of the pork promotion fund shall be used, directly or indirectly, to influence legislation, to support any candidate for public office, or to support any political party.

Sec. 15. Chapter 183, Code 1985, is repealed.

Approved May 28, 1985

**CHAPTER 200**  
**ENERGY CONSERVATION IMPROVEMENTS**  
*S.F. 450*

**AN ACT** to create Iowa commerce commission pilot programs for energy conservation improvements.

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

**Section 1. NEW SECTION. 476.61 ENERGY CONSERVATION IMPROVEMENTS — PILOT PROGRAMS.**

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

a. "Energy conservation improvement" means the purchase or installation of a device, method, or material that increases the efficiency in the use of electricity or natural gas, including but not limited to:

- (1) Insulation and ventilation.
- (2) Storm or thermal doors or windows.
- (3) Caulking and weatherstripping.
- (4) Furnace efficiency modifications.
- (5) Thermostat and lighting controls.
- (6) Efficient lighting fixtures.
- (7) Window treatments.
- (8) Systems to turn off or vary the delivery of energy including load control devices.
- (9) Efficient appliances, water heaters, furnaces, and air conditioners.

b. "Investments of a public utility" means the investments incurred by a public utility in connection with an energy conservation improvement including but not limited to:

(1) The differential in interest cost between the market rate and the rate charged on a no-interest or below-market-interest loan made by a public utility to a customer for the purchase or installation of an energy conservation improvement.

(2) The difference between the utility's cost of purchase or installation of energy conservation improvements and any lower price charged by a public utility to a customer for the improvements.

(3) A credit, rebate or other financial incentive given to a customer for the purchase or installation of an energy conservation improvement.

2. Prior to January 1, 1986, the commission, after consultation with the Iowa energy policy council, shall initiate pilot programs to examine and demonstrate the feasibility of investments of a public utility in energy conservation improvements.

3. As part of the pilot programs, the commission shall require public utilities to make investments in energy conservation improvements. The cost of money, bad debt expense, administrative costs, and other costs of the pilot programs authorized by this section shall be included in general utility rates effective upon approval of the pilot programs by the commission pursuant to section 476.6, subsection 11. The inclusion of costs in utility rates as provided in this subsection shall not continue after the costs arising from the approved energy conservation program have been recovered.

4. Any energy conservation improvement made to or installed in any customer building pursuant to this section is the exclusive property of the owner of the building except to the extent of any security interest taken by the public utility in case of a loan to the building owner.

5. If investments by a public utility in energy conservation improvements are prohibited or restricted in any manner by federal law and there is a provision in that law under which the prohibition or restriction may be waived, the commission or other state officer or agency shall take whatever steps may be necessary to obtain the waiver for public utilities participating in the energy conservation improvement program.

6. For the purposes of determining "excess capacity" as provided in section 476.53, energy conservation improvements made as a result of this program or other programs initiated by utilities specifically to reduce demand, shall not be considered to contribute to the excess capacity of the utility.

A loan, credit, rebate or other financial incentive offered or given to a customer for the purchase or installation of an energy conservation improvement pursuant to this section shall not be contingent upon the improvement being performed by the utility.

7. The commission shall provide small businesses with an equal opportunity to compete by adopting rules pursuant to chapter 17A which require, where practical, that customers be provided with alternative pricing proposals for energy conservation improvements from small businesses and other persons in addition to the proposals provided by the investor-owned rate-regulated utilities.

8. If after the conclusion of a pilot program the commission finds that the program is an effective method to improve energy conservation and is expected to result in long-term savings in energy costs, the commission may adopt rules requiring all investor-owned, rate-regulated public gas and electric utilities to make investments in energy conservation improvements in accordance with this section.

Sec. 2. By January 1, 1988, the Iowa state commerce commission shall file with the governor and the general assembly a report on the effects section 476.61 created under this Act has made on rates charged to customers of investor-owned electric and natural gas utilities in Iowa and the report shall indicate the level of investments in energy conservation improvements made by the public utilities under the provisions of section 476.61.

Approved May 28, 1985

**CHAPTER 201**  
**FORFEITURE OF PROPERTY**  
*S.F. 455*

**AN ACT** relating to the seizure and forfeiture of property which is obtained in violation of the law, unlawful to possess, used or possessed with criminal intent, relevant to a criminal prosecution, or which is the proceeds of criminal activity.

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

Section 1. Section 80.39, subsection 1, Code 1985, is amended to read as follows:

1. Personal property, except for property subject to forfeiture, motor vehicles subject to sale pursuant to section 321.89, ~~weapons subject to disposition pursuant to section 691.9,~~ and seized seizable or forfeitable property subject to disposition pursuant to chapter 809, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department of public safety and which the department does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. Publication notice may contain multiple items.

Sec. 2. Section 331.427, subsection 1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 84.21, 98.35, 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, 176A.8, 247A.10, 321.105, 321.152, 321.192, 321G.7, 331.554, subsection 6, 341A.20, 364.3, 368.21, 422.65, 422.100, 422A.2, 428A.8, 430A.3, 433.15, 434.19, 441.68, 445.52, 445.57, 533.24, 556B.1, 567.10, 583.6, ~~809.6,~~ 906.17, and 911.3, and the following:

Sec. 3. Section 602.8102, subsection 129, Code 1985, is amended to read as follows:

129. Carry out duties relating to the disposition of seized property as provided in ~~sections 809.2 and 809.3~~ chapter 809.

Sec. 4. **NEW SECTION. 809.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Seizable property" means all or part of any property subject to seizure in the execution of a search warrant, arrest warrant, or arrest without warrant including, but not limited to, the following:

- a. Property which has been obtained in violation of the law.
- b. Property, the possession of which is unlawful.
- c. Property used or possessed with the intent to be used as a means of committing a public offense or concealed to prevent an offense from being discovered.
- d. Property relevant and material as evidence in a criminal prosecution.

2. "Forfeitable property" means all or part of any property subject to forfeiture to the state including, but not limited to, the following:

a. Seizable property which has been seized and not returned pursuant to sections 809.2 through 809.5.

b. Property which is proceeds of or which may be traced to the proceeds of the commission of a public offense.

c. Money, coin, currency, negotiable instruments, valuable minerals, or other similar items of value used as or in lieu of currency, found in close proximity to seizable property or in close proximity to any record of the importation, manufacture or distribution of seizable property.

d. Property subject to forfeiture under any other statute or provision of law.

Sec. 5. NEW SECTION. 809.2 NOTICE OF SEIZURE OF SEIZABLE PROPERTY.

1. When seizable property is seized pursuant to this chapter, a notice of seizure shall be filed promptly with the clerk of the district court for the county in which the property was located when seized. The notice shall state the time and place where the seizure occurred and set forth the names of any persons from whom the property was seized and the names of any persons believed by the seizing officer to have an interest in the property. To identify persons who may have an interest in the property, the seizing officer or the county attorney shall make a reasonable examination of any appropriate records regarding the property to ascertain whether liens or interests in the property currently exist. The notice shall contain a complete list of all property seized and describe the property with as much particularity as practicable.

2. Within seventy-two hours of receiving a notice of seizure, the clerk shall mail a copy of the notice to the attorney general and cause to be served upon all lienholders of record and each person listed in the notice a copy of the notice and a statement that a person affected by the seizure has a right to file a claim for the return of the property.

Sec. 6. NEW SECTION. 809.3 CLAIM FOR RETURN OF SEIZABLE PROPERTY.

1. A person claiming a right to possession of seizable property seized pursuant to this chapter may make application for its return in the office of the clerk of court for the county in which the property was seized. The application shall be filed within thirty days after receipt of the notice of seizure, and failure to file the application within this time period shall terminate the interest of the person.

2. The application for the return of seizable property shall state the specific item or items sought, the nature of the claimant's interest in the property, and the grounds upon which the claimant seeks to have the property returned. The fact that the property is inadmissible as evidence or that it may be suppressed is not grounds for its return.

3. The claimant shall cause a copy of the application to be served upon all persons listed in the notice of seizure, the county attorney, and the attorney general.

4. If an application for the return of seizable property is not timely made pursuant to this section, upon application of the county attorney or the attorney general the clerk shall enter an order forfeiting the property to the state.

5. Notwithstanding the provisions of this section to the contrary, seized property which was stolen or otherwise obtained in violation of the law may be returned to the owner, if the owner was not the person from whom the property was seized, without hearing if all of the following are true:

a. The identity of the owner is not in question.

b. The owner's right to possess the property is not in question.

c. The possession of the property is not prohibited by law.

d. One of the following is also true:

(1) Criminal charges have not been filed and are not being contemplated regarding the theft of the property.

(2) Evidence regarding the property is not to be introduced in any proceeding.

(3) If evidence regarding the property is to be introduced, all of the following are true:

(a) The property has been photographed in such a manner as to fairly show the nature and condition of the property.

(b) The photographs are available for use in any subsequent proceeding.

(c) If the value of the property is in excess of one hundred dollars, the county attorney has notified the attorney for any person against whom the evidence regarding the property may be used of the intention to return the property following its being photographed and the person's attorney either exercised or waived an opportunity to examine the property within fourteen days.

(4) If the property may be introduced as evidence, it is of such a nature that it is not easily alterable without detection and arrangements satisfactory to both the county attorney and the attorneys for any persons against whom evidence regarding the property may be used have been made for its return for use as evidence.

Sec. 7. NEW SECTION. 809.4 HEARING — APPEAL.

An application for the return of seizable property shall be set for hearing not less than five or more than thirty days after the filing of the application and shall be tried to the court. If the total value of the property sought to be returned meets the appropriate jurisdictional limit, the proceeding may be conducted by a magistrate or a district associate judge with appeal to be as in a case of small claims. In all other cases, the hearing shall be conducted by a district judge, with appeal as provided in section 809.12.

Sec. 8. NEW SECTION. 809.5 RETURN OF SEIZABLE PROPERTY.

1. Seizable property which is not required for evidence or use in an investigation may be returned by the officer to the person from whom it was seized without the requirement of a hearing, provided that the person's possession of the property is not prohibited by law.

2. If, upon a hearing pursuant to section 809.4, it is determined that the right of possession is in favor of the claimant, the court shall order the return of the property, subject to both of the following:

a. The claimant's possession of the property is not prohibited by law.

b. The property is not needed as evidence in a judicial proceeding, or if needed, satisfactory arrangements have been made for its return for use as evidence. If the proceedings have not been completed, the court shall make satisfactory arrangements for the return of the property upon the completion of the proceedings.

Sec. 9. NEW SECTION. 809.6 NONRETURNED SEIZED PROPERTY.

Property which is seized but not returned pursuant to sections 809.2 to 809.5 is presumed to be forfeit and shall be proceeded against as provided in sections 809.13 and 809.14.

Sec. 10. NEW SECTION. 809.7 SEIZURE OF FORFEITABLE PROPERTY.

Forfeitable property shall be seized whenever and wherever the property is found within this state. Forfeitable property may be seized by a peace officer or county attorney or by the attorney general. Forfeitable property may be seized by serving upon the person in possession of the property a notice of forfeiture. If the court finds that forfeiture to the state is warranted, an order transferring ownership to the state shall be entered and the property shall be delivered to the attorney general as the attorney general directs.



**Sec. 11. NEW SECTION. 809.8 NOTICE OF SEIZURE OF FORFEITABLE PROPERTY.**

1. When property is seized pursuant to section 809.7, a notice of seizure shall be filed promptly with the clerk of the district court for the county in which the property was located when seized. The notice shall state the time and place where the seizure occurred and shall set forth the names of any persons from whom the property was seized and the names of any persons believed by the seizing officer to have an interest in the property. To identify persons who may have an interest in the property, the seizing officer or the county attorney shall make a reasonable examination of any appropriate records including, but not limited to, the records of the secretary of state, county treasurer, county recorder and the clerk of court regarding the property to ascertain whether liens or interests in the property currently exist. The notice of seizure shall contain a complete list of all property seized and describe the property with as much particularity as practicable.

2. Within seventy-two hours of receiving a notice of seizure of forfeitable property, the clerk shall mail a copy of the notice to the attorney general and cause to be served upon all lienholders of record and each person listed in the notice a copy of the notice and a statement that a person affected by the seizure has a right to file a claim for the return of the property.

**Sec. 12. NEW SECTION. 809.9 CLAIM FOR RETURN OF FORFEITABLE PROPERTY.**

1. A person claiming a right to possession of forfeitable property seized pursuant to sections 809.7 and 809.8 may make application for its return in the office of the clerk of court for the county in which the property was seized. The application shall be filed within thirty days after receipt of the notice of seizure, and failure to file the application within this time period shall terminate the interest of the person.

2. The application for the return of forfeitable property shall state the specific item or items sought, the nature of the claimant's interest in the property, and the grounds upon which the claimant seeks to have the property returned. The fact that the property is inadmissible as evidence or that it may be suppressed is not grounds for its return.

3. The claimant shall cause a copy of the application to be served upon all persons listed in the notice of seizure, the county attorney, and the attorney general.

**Sec. 13. NEW SECTION. 809.10 FORFEITURE.**

1. If an application for the return of forfeitable property is not timely made pursuant to section 809.9, upon application of the county attorney or the attorney general the clerk shall enter an order forfeiting the property to the state.

2. If an application for the return of forfeitable property is timely made pursuant to section 809.9, the claim shall be set for hearing and the hearing shall be held not less than five or more than thirty days after the filing of the claim and shall be tried to the court. If the total value of the property sought to be returned meets the appropriate jurisdictional limit, the proceeding may be conducted by a magistrate or a district associate judge with appeal to be as in a case of small claims. In all other cases, the hearing shall be conducted by a district judge, with appeal as provided in section 809.12.

**Sec. 14. NEW SECTION. 809.11 PROCEDURES AT HEARING.**

1. At the hearing, the burden is upon the state to prove by clear and convincing evidence that the property is forfeitable. However, forfeiture is not dependent upon a prosecution for, or conviction of, a criminal offense and forfeiture proceedings are separate and distinct from any related criminal action.

2. Court appointed counsel, at the state's expense, is not available in forfeiture proceedings. The attorney general shall represent the state in all forfeiture proceedings but may, at the attorney general's discretion, direct that the county attorney of the county in which the seizure of the property occurred shall serve in place of the attorney general.

3. The costs for a forfeiture action shall be as in the case of criminal actions filed by the county attorney, however, no costs for filing or service shall be assessed in a proceeding where no claim for return has been made.

4. The court may assess costs against a losing party or apportion costs against the parties.

5. Property which has been seized for forfeiture, and is not already secured as evidence in a criminal case, shall be safely secured or stored by the agency which caused its seizure unless directed otherwise by the attorney general.

Sec. 15. NEW SECTION. 809.12 APPEALS.

1. An appeal from a judgment of seizure or forfeiture by a district judge shall be made within thirty days after the entry of a judgment order. The appellant, other than the state, shall post a bond of a reasonable amount as the court may fix and approve, conditioned to pay all costs of the proceedings if the appellant is unsuccessful on appeal. The appellant, other than the state, may be required to post a supersedeas bond or other security the court finds to be reasonable in order to stay the operation of a forfeiture order.

2. If property forfeitable under this chapter is needed as evidence in a criminal proceeding, it shall be retained under the control of the prosecuting county attorney, or the county attorney's designee, until such time as its use as evidence is no longer required.

Sec. 16. NEW SECTION. 809.13 DISPOSITION OF FORFEITED PROPERTY.

1. Upon a final determination by a court that property is forfeited, the court shall enter an order that the ownership of the property be transferred to the state. The court shall also order that the person having control over the property deliver the property to the department of justice, or if no person has control over the property, the court shall authorize the department of justice to take measures necessary to provide for the delivery of the property to the department.

2. Forfeited property delivered to the department of justice may be used in the enforcement of the law. The department may give, sell, or trade property which is not subject to subsection 4 to other state agencies or to any other law enforcement agency within the state if, in the opinion of the attorney general, it will enhance law enforcement within the state.

3. Forfeited property which is not used by the department of justice in the enforcement of the law and which is not property subject to subsection 4, may be requisitioned by the department of public safety for use by a state or local law enforcement agency or by the director of the department of general services to be disposed of in the same manner as property received pursuant to section 18.15.

4. Notwithstanding subsection 1, 2, or 3, forfeited property which is:

a. A controlled substance or a simulated, counterfeit, or imitation controlled substance shall be disposed of as provided in section 204.506.

b. A weapon or ammunition shall be deposited with the department of public safety to be disposed of in accordance with the rules of the department. All weapons or ammunition may be held for use in law enforcement, testing, or comparison by the criminalistics laboratory, or destroyed.

c. Material in violation of chapter 728 shall be destroyed.

**Sec. 17. NEW SECTION. 809.14 NONFORFEITABLE INTERESTS – PURCHASE OF FORFEITED INTERESTS.**

1. Property shall not be forfeited under this chapter to the extent of the interest of an owner, other than a joint tenant, who had no part in the commission of the crime and who had no knowledge of the criminal use or intended use of the property. However, if it is established that the owner permitted the use of the property under circumstances in which a reasonable person should have inquired into the intended use of the property and that the owner failed to do so, there is a rebuttable presumption that the owner knew that the property was intended to be used in the commission of a crime.

2. Upon receipt of forfeited property the attorney general shall permit any owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty days the option shall be terminated, unless the time for exercising the option is extended by the attorney general.

3. A person having a valid, recorded lien or property interest in forfeited property, which has not been repurchased pursuant to subsection 2, shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which the property becomes forfeitable.

4. This section does not preclude a civil suit by an owner of an interest in forfeited property against that party who, by criminal use, caused the property to become forfeited to the state.

**Sec. 18. NEW SECTION. 809.15 COMBINING PROCEEDINGS.**

In cases involving seizable property and forfeitable property, the court may order that the proceedings be combined for purposes of this chapter.

**Sec. 19. NEW SECTION. 809.16 RULEMAKING.**

The attorney general may adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

**Sec. 20. NEW SECTION. CUMULATIVE EFFECT.**

The provisions of this chapter are intended to be cumulative and in addition to other actions or proceedings against seizable or forfeitable property otherwise provided by statute.

**Sec. 21. Sections 691.9 and 728.13 are repealed.**

**Sec. 22. Chapter 809, Code 1985, is repealed and sections 4 through 20 of this Act are enacted as a new chapter 809.**

Approved May 28, 1985

**CHAPTER 202**  
**DISPOSAL OF HAZARDOUS WASTE**  
*S.F. 463*

**AN ACT** relating to the disposal of hazardous wastes, providing for a civil penalty, and providing for an effective date.

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

Section 1. Section 455B.422, Code 1985, is amended to read as follows:  
455B.422 ACQUISITION AND LEASE OF SITES.

The commission shall adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation of a treatment or disposal facility. Upon request, the department shall assist the executive council in locating suitable sites for the location of a treatment or disposal facility. The commission may recommend to the executive council the purchase or condemnation of land to be leased for the operation of a treatment or disposal facility. The executive council may purchase or may condemn the land subject to chapter 471. Consideration for a contract for purchase of land shall not be in excess of funds appropriated by the general assembly for that purpose. The executive council upon recommendation of the commission may lease land purchased under this section to any person ~~except~~ including the state or a state agency. This section ~~does not authorize~~ authorizes the state to own or operate a hazardous waste treatment or disposal facility for the treatment and disposal of hazardous wastes ~~other than those generated by the state~~. The terms of the lease shall establish responsibility for long-term monitoring and maintenance of the site. The lessee is subject to all applicable requirements of this part including permit requirements. The commission may require the lessee to post bond conditioned upon performance of conditions of the lease relating to long-term monitoring and maintenance. The leasehold interest including improvements made to the property shall be listed, assessed and valued as any other real property as provided by law.

Sec. 2. NEW SECTION. 455B.461 DEFINITIONS.

As used in this part 7 of division IV, unless the context otherwise requires:

1. "Hazardous waste" means hazardous waste as defined in section 455B.411, subsection 3, and section 455B.464.

2. "Land disposal" means either of the following:

a. Disposal of hazardous wastes on or into the land, including, but not limited to, landfill, surface impoundment, waste piles, land spreading, and coburial with municipal garbage.

b. Treatment of hazardous wastes on or in the land, such as neutralization and evaporation ponds and land farming, where the treatment residues are hazardous wastes and are not removed for subsequent processing or disposal within one year.

"Land disposal" does not include long-term storage as defined in subsection 3.

3. "Long-term storage" means the above-ground containment of stabilized or solidified hazardous waste on a temporary basis or for a period of years in a manner that does not constitute disposal of hazardous waste.

4. "Storage" means the containment of a hazardous waste for a period less than one year in a manner consistent with the requirements of 42 U.S.C. § 6921-6934 as amended to January 1, 1981 and the regulations adopted pursuant to those sections.

5. "Facility" means facility as defined in section 455B.442, subsection 1.

6. "Restricted waste" means a hazardous waste or any other waste which is determined by rule of the commission to be a significant environmental burden if disposed of at a land disposal facility.

Sec. 3. NEW SECTION. 455B.462 ELIMINATION OF LAND DISPOSAL OF HAZARDOUS WASTE.

1. A generator, recycler, transporter or other handler of hazardous waste shall not dispose of the wastes by land disposal or store wastes at an above-ground storage facility, unless all of the following conditions exist:

a. The commission determines that the best available technology is being used at the land disposal facility.

b. The handler proves to the satisfaction of the commission that there is no available alternative including above ground storage for the disposal of hazardous waste.

c. The handler utilizes methods of source reduction, recycling and destruction of hazardous waste to the extent feasible, as determined by rule.

d. The handler pretreats the hazardous waste as determined by rule.

2. The commission shall adopt rules including, but not limited to, the following:

a. To determine the criteria that industry must satisfy to show that alternatives to land disposal of hazardous wastes are not technically or economically feasible.

b. To require that all industrial and commercial owners or users of land disposal and storage sites report to the department annually the amount and content of current hazardous waste production, treatment methods used and technological advances made or pursued to implement alternatives to land disposal and source reduction.

Sec. 4. NEW SECTION. 455B.463 DILUTION OF HAZARDOUS WASTE.

Any hazardous waste shall be considered a restricted waste for the purposes of this part even though it is diluted to a concentration less than the listed concentration threshold by the addition of other hazardous waste or any other material during waste handling treatment or storage. Dilution which occurs as a normal part of the manufacturing process shall not be considered dilution for purposes of this section.

Sec. 5. NEW SECTION. 455B.464 ADDITIONAL HAZARDOUS OR RESTRICTED WASTE LISTED.

Notwithstanding the restriction in section 455B.420, the executive director shall compile, annually, a list of additional hazardous wastes for adoption by the commission pursuant to the rulemaking procedures of chapter 17A. The list shall include wastes which may be a significant environmental burden if disposed of at a land disposal facility.

Sec. 6. NEW SECTION. 455B.465 WELL INJECTION PROHIBITED.

It is unlawful for a person to inject hazardous or restricted wastes into a well.

Sec. 7. NEW SECTION. 455B.466 CIVIL PENALTIES.

A person who violates a provision of this part is subject to a civil penalty of not more than ten thousand dollars for each violation and for each day of continuing violation. Civil penalties collected pursuant to this section shall be forwarded by the clerk of the district court to the treasurer of state for deposit in the general fund of the state.

Sec. 8. NEW SECTION. 455B.467 EMERGENCY VARIANCE.

The department may grant a variance to the restrictions or prohibition of land disposal of a hazardous waste in either of the following situations:

1. When the materials sought to be disposed of resulted from the cleanup of a hazardous condition involving a hazardous waste.
2. When the materials sought to be disposed of resulted from remediation or cleanup of abandoned or uncontrolled hazardous waste sites.

Sec. 9. NEW SECTION. 455B.468 COORDINATION WITH EXISTING REPORTING AND PERMITTING REQUIREMENTS.

This part does not require the department to establish a reporting or permitting system if such a system is already established under the federal Resource Conservation and Recovery Act 42 U.S.C. §6901 et seq. and administered and enforced through the federal environmental protection agency that achieves the objectives set out in this part. Consistent with this part, the department may establish requirements in addition to those established under the Resource Conservation Recovery Act for reporting, permitting, and enforcement. However, in such actions, the department shall avoid any redundancy in reporting, compliance, and enforcement with that provided under the Resource Conservation and Recovery Act.

Notwithstanding section 455B.420, the rules and requirements imposed under this part may be more restrictive than required by federal law or regulation.

Sec. 10. PLAN FOR HAZARDOUS WASTE STORAGE FACILITY. The department of water, air and waste management shall submit a plan for the siting and construction of an above-ground facility for the long-term storage of hazardous wastes. The plan shall include, but is not limited to, all of the following:

- a. The capital needs and annual operating costs of the facility.
- b. The costs to private persons if the costs of establishing and operating the facility are paid by user fees and hazardous waste taxes.
- c. Provisions that anticipate and provide for compatibility with a possible future expansion to include other methods of disposal on the site.

The plan shall be submitted to the governor and the general assembly by January 1, 1987.

Sec. 11. Sections 3, 4, and 8 of this Act are effective on July 1, 1986.

Approved May 28, 1985

**CHAPTER 203**  
**STANWOOD LEGALIZING ACT**  
*S.F. 507*

**AN ACT** to legalize the proceedings of the city council of the city of Stanwood relating to the boundaries of the city.

WHEREAS, records of the city of Stanwood, Iowa, which indicated the annexation of a specific area of land have been destroyed or lost; and

WHEREAS, the City of Stanwood, Iowa, has continued to provide city services and otherwise treated the annexed area as part of the city for many years; and

WHEREAS, the failure to produce records indicating the land annexed raises legal questions that should be put to rest; NOW THEREFORE,

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

Section 1. The boundaries of the City of Stanwood, Iowa, are established and are specifically described as territory lying in Fremont Township of Cedar County, Iowa, known as the City of Stanwood and lying within the following described boundaries:

That parcel of land containing the following: the S1/2 of the NW1/4 of Section 24, the SW1/4 of Section 24, the E1/2 of the SE1/4 of Section 23, and the SE1/4 of the NE1/4 of Section 23, all within the Fremont Township, T. 82N.-R. 3W, Cedar County, Iowa.

All actions of the city council of Stanwood, Iowa, taken prior to the effective date of this Act in regard to the boundaries described in this Act are legalized, validated and confirmed.

Approved May 28, 1985

**CHAPTER 204**  
**AGRICULTURAL SUPPLY DEALER'S LIEN**  
*S.F. 538*

**AN ACT** relating to an agricultural supply dealer's lien.

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

Section 1. Section 570A.1, Code 1985, is amended by adding the following new subsection 11 and renumbering the subsequent subsections:

NEW SUBSECTION. 11. "Livestock" means cattle, sheep, swine, poultry, or other animals or fowl.

Sec. 2. Section 570A.2, subsection 1, Code 1985, is amended to read as follows:

1. Upon the receipt of a certified request of an agricultural supply dealer, prior to or upon a sale on a credit basis of agricultural chemicals, seed, feed, or petroleum products to a farmer, a financial institution which has either a security interest in collateral owned by the farmer or an outstanding loan to the farmer for an agricultural purpose shall issue within two four business days a memorandum which states whether or not the farmer has a sufficient net worth or line of credit to assure payment of the purchase price on the terms of the sale. The certified request submitted by the agricultural supply dealer shall state the amount of the purchase and the terms of sale, and shall be accompanied by a waiver of confidentiality signed by the farmer, and a fifteen dollar fee. The waiver of confidentiality and the certified request may be combined and submitted as one document. If the financial institution states in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the memorandum is an irrevocable and unconditional letter of credit to the benefit of the agricultural supply dealer for a period of thirty days following the date on which the final payment is due for the amount of the purchase price which remains unpaid. If the financial institution does not state in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the financial institution shall transmit the relevant financial history which it holds on the person. This financial history shall remain confidential between the financial institution, the agricultural supply dealer, and the farmer.

Sec. 3. Section 570A.3, subsection 1, Code 1985, is amended to read as follows:

1. An agricultural supply dealer furnishing an agricultural chemical, seed, or a petroleum product to a farmer has a lien for the retail cost of the agricultural chemical, seed, or petroleum product, including labor furnished. The lien attaches to all crops which are produced upon the land to which the agricultural chemical was applied within sixteen months following the last date on which the agricultural chemical was applied, or produced from seed furnished, or produced using the petroleum product furnished, for a period of sixteen months following the date of perfection of the lien pursuant to section 570A.4. However, the lien does not attach to that portion of the crops of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of the agricultural chemical, seed, or petroleum product provided.



Sec. 4. Section 570A.4, subsections 1 and 5, Code 1985, are amended to read as follows:

1. In order to perfect the lien created by section 570A.3, the agricultural supply dealer entitled to the lien shall file a verified lien statement with the office of the secretary of state. The lien statement ~~must be filed either within thirty-one days after the first date on which payment is due from the farmer, or for an agricultural chemical, seed, or feed on or before September 1 of the current crop year and for a petroleum product on or before December 1 of the current crop year, whichever is earlier, except that lien statements related to feed may be filed at the time the agricultural chemical, seed, feed, or petroleum product is purchased or delivered but not later than thirty-one days after the first date on which payment is due under the terms of payment agreed to by the farmer and the agricultural supply dealer.~~ The lien statement shall disclose all of the following:

- a. The name and address of the agricultural supply dealer claiming the lien.
- b. An itemized declaration of the nature and retail cost of the agricultural chemical, seed, feed, or petroleum product which ~~was furnished~~ has been or may be furnished pursuant to the certified request or the combined certified request and waiver of confidentiality.
- c. The last date ~~on~~ through which the agricultural supply dealer claiming the lien ~~furnished the agricultural chemical, seed, feed, or petroleum product for which the lien is claimed~~ has agreed to furnish agricultural chemicals, seed, feed, or petroleum products as stated in the certified request or the combined certified request and waiver of confidentiality.
- d. The first date on which payment was due, according to the terms of payment, from the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished or may be furnished pursuant to the certified request or the combined certified request and waiver of confidentiality.
- e. The name and address of the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished or may be furnished pursuant to the certified request or the combined certified request and waiver of confidentiality.
- f. ~~The legal~~ A description of the real property on which the crops to which the lien attaches are growing or are to be grown or the description of the livestock ~~or animals~~ to which the lien attaches.

5. An agricultural supply dealer filing a verified lien statement shall request from the secretary of state a certificate showing any effective financing statement or verified lien statements naming the debtor and the crops or livestock to which the lien attaches. The agricultural supply dealer shall notify by registered or certified mail, return receipt requested, any other creditor who holds a lien or security interest which is subordinate or equal to the agricultural supply dealer's lien.

Approved May 28, 1985

**CHAPTER 205**  
**TOWNSHIP PUBLIC SAFETY LEVY**  
*H.F. 768*

**AN ACT** relating to townships providing fire protection and ambulance service, establishing emergency warning systems and levying taxes for those purposes.

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

Section 1. Section 359.42, Code 1985, is amended to read as follows:

**359.42 TOWNSHIP FIRE PROTECTION SERVICE, EMERGENCY WARNING SYSTEM, AND AMBULANCE SERVICE.**

The trustees of each township shall provide fire protection service for the township, exclusive of any part of the township within a benefited fire district and, in counties not providing ambulance services, may provide ambulance service. The trustees may purchase, own, rent or maintain fire protection service or ambulance service apparatus or equipment or both kinds of apparatus or equipment and provide housing for the equipment. The trustees of a township which ~~has a common boundary with a city~~ is located within a county having a population of ~~one three hundred eighty~~ three hundred eighty thousand or more may also establish and maintain an emergency warning system within the township. The trustees may contract with ~~any a~~ any public or private agency under chapter 28E for the purpose of providing any service or system required or authorized under this section.

Sec. 2. Section 359.43, subsection 1, Code 1985, is amended to read as follows:

1. The township trustees may levy an annual tax not exceeding forty and one-half cents per thousand dollars of assessed value of the taxable property in the township, excluding any property within a benefited fire district or within the corporate limits of a city, for the purpose of exercising the powers and duties specified in section 359.42. However, in ~~any a~~ any township having a fire protection service or ambulance service agreement or both service agreements with a special charter city having a paid fire department, the township trustees may levy an annual tax not exceeding fifty-four cents per thousand dollars of the assessed value of the taxable property for the services authorized or required under section 359.42 and in ~~any a~~ any township which ~~has a common boundary with a city~~ is located within a county having a population of ~~one three hundred eighty~~ three hundred eighty thousand or more, the township trustees may levy an annual tax not exceeding sixty-seven and one-half cents per thousand dollars of assessed value of taxable property for the services authorized or required under section 359.42.

Approved May 28, 1985

**CHAPTER 206****PARK USER FEE***H.F. 183*

**AN ACT** relating to a user fee for certain state lands under the jurisdiction of the state conservation commission, writing fees, making an appropriation, and providing a penalty.

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

Section 1. Chapter 111, Code 1985, is amended by adding the following new section:

**NEW SECTION. USER PERMITS FOR CERTAIN STATE LANDS.**

1. A person shall not park or permit to be parked a motor vehicle required to be registered under chapter 321 on state land under the jurisdiction of the conservation commission where a user permit is required by subsection 3, unless the vehicle has a user permit attached in accordance with this section.

2. This section does not apply to the following vehicles:

a. Official government vehicles, or vehicles operated by state, county, city, and federal employees and agents while in the performance of official government business.

b. Vehicles operated by family members and guests of a commission employee residing at an area subject to the user permit requirement. The commission shall provide for temporary devices to identify the vehicles of such guests.

c. A vehicle moving on highways within or that cross state land to which this section applies.

d. A vehicle transporting employees to or furnishing services or supplies to the conservation commission or designated concessionaire.

e. A vehicle displaying a handicapped identification device issued under chapter 601E.

3. The requirement of a user permit applies to developed campgrounds at the Shimek, Yellow River, and Stephens state forests, and all areas managed by the state parks section of the conservation commission except those excluded by rule. However, the requirement of a user permit shall not apply on any land acquired by gift if a condition of the gift was the free, public use of the land.

4. The user permit issued by the commission is valid for either the calendar year in which issued or for twenty-four hours from the time of purchase. The fee is ten dollars for the calendar year permit and two dollars for the daily permit.

5. User permits shall be issued without the permit fee by the county recorder to individuals who present a current medical assistance identification card provided by the department of human services or to individuals who show proof of age of sixty-five years or older or to individuals who declare themselves in writing to be current food stamp recipients and who sign a release allowing the department of human services to confirm or deny their eligibility status upon request of the county recorder or the conservation commission.

6. User permits shall be sold by the commission and county recorders and may be sold by depositaries designated by the recorders or the director under section 110.11. A writing fee may be charged for dispensing the user permits as provided under section 110.12 for licenses. Duplicate user permits shall not be issued.

7. A user permit is not transferable between vehicles and shall be displayed as the commission prescribes by rule.

8. a. An officer of the commission who observes a motor vehicle parked in violation of this section shall take the vehicle's registration number and may take other information displayed on the vehicle which may identify its user and deliver to the driver or conspicuously affix to the vehicle a notice of violation in writing on a form provided by the commission. A person who receives the notice or knows that a notice has been affixed to the motor vehicle owned or controlled by the person may pay a civil penalty of twenty dollars to the commission within twenty days. If the civil penalty is not timely paid, the commission may cause a complaint to be filed against the owner or operator of the motor vehicle before a magistrate for the violation of this section in the manner provided in section 804.1. Timely payment of the civil penalty shall be a bar to any prosecution for that violation of this section. All civil penalties collected under this subsection shall be deposited in the general fund of the state.

b. If a citation is issued for a violation of this section and a plea of guilty is entered on or before the time and date set for appearance, the fines shall be thirty dollars and court costs and the criminal penalty surcharge of section 911.2 shall not be imposed.

c. The commission shall provide to its officers sets of triplicate notices each identified by separate serial numbers on each copy of notice. One copy shall be used as a notice of violation and delivered to the person charged or affixed to the vehicle illegally parked, one copy shall be sworn to by the officer as a complaint and may be filed with the clerk of the court of the county if the civil penalty is not timely paid to the commission and one copy shall be retained by the commission for record purposes.

9. The county recorder shall remit to the commission all fees from the sale of user permits within ten days from the end of the month. The commission shall remit the fees from sales of user permits to the treasurer of state who shall place the money in a state park, forest, and recreation area facilities improvement trust fund. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the funds in the state park, forest and recreation area facilities improvement trust fund shall be credited to that fund. The money in that fund is appropriated to the commission solely for renovation, replacement, and improvement of facilities otherwise acquired in state parks, forests, and recreation areas. Notwithstanding chapters 96 and 97B, persons employed by the commission with the money from the trust fund are not eligible for membership in the Iowa public employees' retirement system or eligible to receive unemployment compensation benefits by virtue of this employment.

10. A person who receives a notice of violation under this section may, in lieu of paying the civil penalty, produce proof that the person has acquired a current calendar year permit. The proof shall be submitted to the commission in the same manner as the civil penalty.

Sec. 2. Section 111.57, Code 1985, is amended to read as follows:

111.57 PENALTIES.

Any person violating any of the provisions of the foregoing sections numbered 111.35 to 111.56 shall be and section 1 of this Act is guilty of a simple misdemeanor.

Sec. 3. This Act takes effect January 1 following enactment.

Approved May 28, 1985

**CHAPTER 207**  
**SHEEP AND WOOL PROMOTION BOARD**  
*H.F. 677*

**AN ACT** creating an Iowa sheep and wool promotion board, and providing a penalty.

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

Section 1. NEW SECTION. 182.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Affected producer" means a person defined as a producer who is subject to the assessment pursuant to section 182.14.
2. "Board" means the Iowa sheep and wool promotion board established pursuant to section 182.5.
3. "District" means an official crop reporting district formed by the United States department of agriculture and set out in the annual farm census published by the Iowa department of agriculture.
4. "Eligible voter" means a person who has been a producer for the three hundred sixty-five days preceding the date of a referendum conducted pursuant to section 182.4.
5. "First purchaser" means a person who resells sheep or wool purchased from a producer or offers for sale a product produced from the sheep or wool for any purpose.
6. "Producer" means a person who is actively engaged within this state in the business of producing or marketing sheep or wool and who receives income from the production of sheep or wool.
7. "Sale" or "sold" means a transaction in which the property in or to sheep or wool is transferred from the producer to a first purchaser for full or partial consideration.
8. "Secretary" means the secretary of agriculture.
9. "Sheep" means an animal of the ovine species, regardless of age, produced or marketed in this state for slaughter.
10. "Wool" means the natural fiber produced by sheep.

Sec. 2. NEW SECTION. 182.2 PETITION FOR ELECTION.

Upon receipt of a petition signed by at least fifty producers in each district requesting a referendum election to determine whether to establish an Iowa sheep and wool promotion board and to impose an assessment not to exceed two cents on every pound of wool produced and sold by a producer and ten cents per head on all sheep sold for slaughter by a producer, the secretary shall call a referendum to be conducted within sixty days following receipt of the petition.

Sec. 3. NEW SECTION. 182.3 NOTICE OF REFERENDUM.

The secretary shall give notice of the referendum on the question of whether to establish an Iowa sheep and wool promotion board and to impose the assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the secretary.

A referendum shall not be commenced until five days after the last date of publication.

**Sec. 4. NEW SECTION. 182.4 ESTABLISHMENT OF SHEEP AND WOOL PROMOTION BOARD AND TAX.**

1. Each producer who signs a statement certifying that the producer is a bona fide producer is entitled to one vote. At the close of the referendum, the secretary shall count and tabulate the ballots cast. If a majority of voters favor establishing an Iowa sheep and wool promotion board and imposing an assessment, an Iowa sheep and wool promotion board shall be established. The assessment shall be imposed commencing not more than sixty days following the referendum as determined by the Iowa sheep and wool promotion board, and shall continue until terminated by a referendum as provided in subsection 2. If a majority of the voters do not favor establishing an Iowa sheep and wool promotion board and imposing the assessment, the assessment shall not be imposed and the board shall not be established until another referendum is held under this chapter and a majority of the voters favor establishing a board and imposing the assessment. If a referendum fails, another referendum shall not be held within one hundred eighty days.

2. Upon receipt of a petition signed by at least twenty-five producers in each district requesting a referendum election to determine whether to terminate the establishment of the Iowa sheep and wool promotion board and to terminate the imposition of the assessment, the secretary shall call a referendum to be conducted within sixty days following the receipt of the petition. The petitioners shall guarantee the payment of the costs of a referendum held under this subsection. If the majority of the voters of a referendum do not favor termination, an additional referendum may be held when the secretary receives a petition signed by at least twenty-five producers in each district. However, the additional referendum shall not be held within one hundred eighty days.

**Sec. 5. NEW SECTION. 182.5 COMPOSITION OF BOARD.**

The Iowa sheep and wool promotion board established under this chapter shall be composed of nine producers, one from each district. The dean of the college of agriculture of Iowa state university of science and technology or the dean's representative and the secretary or the secretary's designee shall serve as ex officio nonvoting members of the board. The board shall annually elect a chairperson from its membership.

**Sec. 6. NEW SECTION. 182.6 INITIAL BOARD.**

Candidates for positions on the initial board are nominated by filing a petition with the secretary containing the signatures of at least twenty-five producers in the candidate's district qualified to vote on the referendum. Candidates shall be resident producers of the district from which they are nominated. The secretary shall receive the nominations, and shall call an election for members of the initial board within thirty days following passage of the question at the referendum election.

**Sec. 7. NEW SECTION. 182.7 ELECTION FOR DIRECTORS.**

Notice of the initial election for directors of the board shall be given by the secretary by publication in a newspaper of general circulation in the state at least five days prior to the date of the election and in any other reasonable manner as determined by the secretary. The notice shall set forth the period of time for voting, voting places, and other information as the secretary deems necessary.

Notice of subsequent elections for the membership position for a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as determined by the board and shall set forth the period of time for voting, voting places, and other information as the board deems necessary.

**Sec. 8. NEW SECTION. 182.8 TERMS.**

The term of office for members of the board shall be three years and no member shall serve more than two complete consecutive terms. The producers on the initial board shall determine their terms by lot, so that three producers shall serve a one-year term, three producers shall serve a two-year term, and three producers shall serve a three-year term.

Sec. 9. NEW SECTION. 182.9 SUBSEQUENT MEMBERSHIP.

After the appointment of the initial board, the board shall administer subsequent elections for members of the board with the assistance of the secretary. Before the expiration of a member's term of office, the board shall appoint a nominating committee for the district represented by the member. The nominating committee shall consist of five producers who are residents of the district from which a member must be elected. The nominating committee shall nominate two resident producers as candidates for the membership position for which an election is to be held. Additional candidates may be nominated by a written petition of twenty-five resident producers. The board shall provide by rule and shall publish procedures governing the time and place of filing the nominations.

Sec. 10. NEW SECTION. 182.10 VACANCIES.

The board shall by appointment fill an unexpired term if a vacancy occurs on the board. The appointee shall be a resident producer in the district having a vacancy.

Sec. 11. NEW SECTION. 182.11 PURPOSES OF BOARD.

The purposes of the board shall be to:

1. Enter into contracts or agreements with or make grants to recognized and qualified agencies, individuals, or organizations for the development and carrying out of research and education programs directed toward better and more efficient production, marketing, and utilization of sheep and wool and their products.
2. Provide methods and means, including, but not limited to, public relations and other promotion techniques for the maintenance of present markets.
3. Assist in development of new or larger markets, both domestic and foreign, for sheep and wool and their products.

Sec. 12. NEW SECTION. 182.12 POWERS AND DUTIES.

The board may:

1. Administer and enforce this chapter and perform acts reasonably necessary to effectuate the purposes of this section.
2. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.
3. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
4. Adopt, rescind, and amend all proper and necessary rules for the exercise of its powers and duties.
5. Enter into arrangements for collection of the assessment on sheep and wool.
6. Formulate and execute assessment procedures and methods of collection.
7. Receive and investigate complaints and violations of this chapter and take necessary action.
8. Confer and cooperate with legally constituted authorities of other states and the United States.
9. Establish accounts in adequately protected financial institutions to receive, hold, and disburse board moneys.

Sec. 13. NEW SECTION. 182.13 COMPENSATION.

Members of the board may receive payment for their actual expenses and travel in performing official board functions. Payment shall be made from amounts collected from the assessment. No member of the board shall be a salaried employee of the board or any organization or agency receiving funds from the board. The board shall meet at least once every three months, and at other times it deems necessary.

Sec. 14. NEW SECTION. 182.14 ASSESSMENT.

If approved by a majority of voters at a referendum, an assessment to be set by the board at not more than two cents for each pound of wool produced and sold by a producer and not more than ten cents per head on sheep sold for slaughter by a producer shall be imposed on the producer at the time of delivery to the first purchaser who will deduct the assessment from the price paid to the producer at the time of sale. If the producer sells, ships, or otherwise disposes of wool or sheep for slaughter to a first purchaser or other person outside the state of Iowa, the producer shall deduct the assessment from the amount received from the sale and shall forward the amount deducted to the board within thirty days following each calendar quarter. If the producer and the first purchaser are the same person, then that person shall pay the assessment to the board within thirty days following each calendar quarter.

Sec. 15. NEW SECTION. 182.15 INVOICE REQUIRED.

At the time of sale, the first purchaser shall sign and deliver to the producer separate invoices for each purchase. The invoices shall show:

1. The name and address of the producer and the seller, if different from the producer.
2. The name and address of the first purchaser.
3. The pounds of wool or head of sheep for slaughter sold.
4. The date of the purchase.
5. The rate of withholding and the total amount of the assessment withheld.

Invoices shall be legibly written and shall not be altered.

Sec. 16. NEW SECTION. 182.16 FUNDS.

Subject to section 182.14, the assessment imposed by this chapter shall be remitted by the purchaser to the Iowa sheep and wool promotion board not later than thirty days following each calendar quarter during which the assessment was collected. Amounts collected from the assessment shall be deposited in an account established pursuant to section 182.12, subsection 9. Expenses and disbursements incurred and made pursuant to this chapter shall be made by voucher, draft, or check bearing the signature of a person designated by majority vote of the board.

Sec. 17. NEW SECTION. 182.17 REFUNDS.

A producer who has paid the assessment may, by application in writing to the board, secure a refund of all or part of the amount paid. The refund shall be payable only when the application has been made to the board within sixty days after the deduction has been made by the producer or within sixty days after the remittance has been made by the first purchaser. Each application for refund by a producer shall have attached proof that the assessment was paid. The proof of the assessment paid may be in the form of a duplicate or certified copy of the purchase invoice by the purchaser.

Sec. 18. NEW SECTION. 182.18 USE OF MONEYS.

Moneys collected under this chapter are subject to audit by the auditor of state and shall be used by the Iowa sheep and wool promotion board first for the payment of collection and refund expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third for the purposes identified in section 182.11. Moneys of the board remaining after a referendum is held at which a majority of the voters favor termination of the board and the assessment shall continue to be expended in accordance with this chapter until exhausted.



The board shall not engage in any political activity, and it shall be a condition of any allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

Sec. 19. NEW SECTION. 182.19 BOND REQUIRED.

All persons holding positions of trust under this chapter shall give bond in the amount required by the board. The premiums for bond costs shall be paid from the moneys of the board.

Sec. 20. NEW SECTION. 182.20 EXAMINATION OF RECORDS.

Persons subject to this chapter shall furnish on forms provided by the board information needed to enable the board to effectuate the policies of this chapter. For the purpose of ascertaining the correctness of a report made to the board under this chapter, the secretary may examine books, papers, records, copies of tax returns not confidential by law, and accounts, which are in the control of any person. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas in connection with the administration of this chapter.

Sec. 21. NEW SECTION. 182.21 PENALTY.

A person who willfully violates a provision of this chapter, willfully gives a false report, statement, or record required by the board, or willfully fails to furnish or render a report, statement or record required by the secretary is guilty of a simple misdemeanor.

Sec. 22. NEW SECTION. 182.22 PURCHASERS OUTSIDE IOWA.

The secretary may enter into arrangements with first purchasers from outside Iowa for payment of the assessment.

Sec. 23. NEW SECTION. 182.23 REPORT.

During the period of collection of the assessment, the board in cooperation with the auditor of state shall make an annual report which shall show all income, expenses and other relevant information.

Approved May 28, 1985

**CHAPTER 208****PSYCHOLOGICAL TESTING — LAW ENFORCEMENT PERSONNEL***H.F. 691*

**AN ACT** relating to the psychological testing of law enforcement officers and candidates.

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

Section 1. Section 22.7, Code 1985, is amended by adding the following new numbered subsection:

**NEW NUMBERED SUBSECTION. 19.** Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates administered by or on behalf of a governmental body, to the extent that their disclosure could reasonably be believed by the custodian to interfere with the accomplishment of the objectives for which they are administered.

Sec. 2. Section 80B.11, subsection 5, Code 1985, is amended to read as follows:

5. Minimum standards of mental fitness which shall govern the initial recruitment, selection and appointment of law enforcement officers. The rules shall include, but are not limited to, providing a battery of psychological tests to determine cognitive skills, personality characteristics and suitability of an applicant for a law enforcement career. However, this battery of tests need only be given to applicants being considered in the final selection process for a law enforcement position. For original appointments to law enforcement officer positions under Notwithstanding any provision of chapter 400, the "final selection process" means the point in the examination process of section 400.8 which is just prior to the certification to the city council of the list of names of the persons who qualify with the highest standing pursuant to section 400.11 an applicant shall not be hired if the employer determines from the tests that the applicant does not possess sufficient cognitive skills, personality characteristics, or suitability for a law enforcement career. The director of the academy shall, beginning July 1, 1986, provide for the cognitive and psychological examinations and their administration at no cost to the law enforcement agencies or applicants, and shall identify and procure persons who can be hired to interpret the examinations.

Approved May 28, 1985

**CHAPTER 209**  
**VEHICLE REGISTRATION AND TITLING**  
*H.F. 711*

**AN ACT** relating to the application for registration and titling of vehicles and providing penalties.

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

Section 1. Section 321.42, unnumbered paragraph 2, Code 1985, is amended to read as follows:

If a certificate of title is lost or destroyed, the owner or lienholder shall apply for a certified copy of the original certificate of title. The owner or lienholder of a motor vehicle may also apply for a certified copy of the original certificate of title as a replacement for the original certificate of title upon surrender of the original certificate of title with the application. The application shall be made to the department or county treasurer who issued the original certificate of title. The application shall be signed by the owner or lienholder and accompanied by a fee of ten dollars. After five days, the department or county treasurer shall issue a certified copy to the applicant at the applicant's most recent address, however, the five-day waiting period does not apply to an applicant who has surrendered the original certificate of title to the department or county treasurer. The certified copy shall be clearly marked "duplicate" and shall be identical to the original, including notation of liens or encumbrances. When a certified copy has been issued, the previous certificate is void. A new purchaser or transferee is entitled to receive an original title upon presenting the assigned duplicate copy to the treasurer of the county where the new purchaser or transferee resides. At the time of purchase, a purchaser may require the seller to indemnify the purchaser and all future purchasers of the vehicle against any loss which may be suffered due to claims on the original certificate. A person recovering an original certificate of title for which a duplicate has been issued shall surrender the original certificate to the county treasurer or the department.

Sec. 2. Section 321.49, subsection 1, Code 1985, is amended to read as follows:

1. Except as provided in section 321.52, if an application for transfer of registration and certificate of title is not submitted to the county treasurer of the residence of the transferee within ~~seven~~ fifteen days of the date of assignment or transfer of title, a penalty of ten dollars shall accrue against the applicant, and no registration card or certificate of title shall be issued to the applicant for the vehicle until the penalty is paid.

Sec. 3. Section 321.52, subsection 3, Code 1985, is amended to read as follows:

3. When a vehicle for which a certificate of title is issued is junked or dismantled by the owner, the owner shall detach the registration plates and surrender the plates to the county treasurer, unless the plates are properly assigned to another vehicle. The owner shall also surrender the registration receipt and certificate of title to the county treasurer. Upon surrendering the certificate of title, the county treasurer shall issue to ~~such~~ the person, without fee, a junking certificate, which shall authorize the holder to possess, transport or transfer ownership of the junked vehicle by endorsement of the junking certificate. The county

treasurer shall hold the surrendered certificate of title, registration receipt and, if applicable, the registration plates for a period of fourteen days following the issuance of a junking certificate under this subsection. Within the fourteen-day period the person who was issued the junking certificate and to whom the vehicle was titled or assigned may surrender to the county treasurer the junking certificate, and upon the person's payment of appropriate fees and taxes and payment of any credit for registration fees received by the person for the vehicle under section 321.46, subsection 3, the county treasurer shall issue to the person a ~~restricted~~ certificate of title for the vehicle. After the expiration of the fourteen-day period, a county treasurer shall not issue a certificate of title ~~shall not again be issued for the a~~ junked vehicle for which a junking certificate is issued. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department.

However, upon application the department upon a showing of good cause may issue a certificate of title after the fourteen-day period for a junked vehicle for which a junking certificate has been issued. For purposes of this subsection, "good cause" means that the junking certificate was obtained by mistake or inadvertence. If a person's application to the department is denied, the person may seek judicial review as provided under sections 17A.19 and 17A.20.

Sec. 4. Section 321.135, Code 1985, is amended to read as follows:

321.135 WHEN FEES DELINQUENT.

~~Delinquencies~~ Except as otherwise provided, delinquencies begin and penalties accrue the first of the month following the purchase of a new vehicle, and ~~the first of the month~~ thirty days following the date a vehicle is brought into the state, ~~except as otherwise provided.~~

Approved May 28, 1985

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## CHAPTER 210

### HIGHER EDUCATION FACILITIES PROGRAM

*H.F. 541*

**AN ACT** to provide for the establishment of the Iowa higher education facilities program.

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

Section 1. Chapter 261A is amended by adding sections 2 through 20 of this Act as a new division.

Sec. 2. **NEW SECTION.** 261A.32 LEGISLATIVE FINDINGS.

The general assembly finds:

1. For the benefit of the people of the state of Iowa, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills.

2. To achieve these ends it is of the utmost importance that educational institutions within the state be provided with appropriate additional means of assisting the youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills through new or enhanced physical facilities and equipment at these institutions.

3. The financing and refinancing of educational facilities, through means as described in this division, other than the appropriation of public funds to institutions, is a valid public purpose.

Sec. 3. NEW SECTION. 261A.33 PURPOSE OF DIVISION.

It is the purpose of this division to provide a measure of assistance and an alternative method of enabling institutions in the state to finance the acquisition, construction, and renovation of needed educational facilities, structures and equipment and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the construction, acquisition, or renovation of needed educational facilities and structures, whether or not constructed, acquired, or renovated prior to the effective date of this Act.

Sec. 4. NEW SECTION. 261A.34 DEFINITIONS.

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

1. "Project" means any property located within the state, constructed or acquired before or after the effective date of this division that may be used or will be useful in connection with the instruction, feeding, or recreation of students, the conducting of research, administration, or other work of an institution, or any combination of the foregoing. Project includes, but is not limited to, any academic facility, administrative facility, assembly hall, athletic facility, instructional facility, laboratory, library, maintenance facility, student health facility, recreational facility, research facility, student union, or other facility suitable for the use of an institution. "Project" also means the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the institution to finance the cost of a project.

2. "Property" means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include property used or to be used primarily for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion.

3. "Cost" as applied to a project or any portion of a project financed under this division means all or a part of the cost of construction and acquisition of land, buildings, or structures, including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of the construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; improvements, replacements, and renovations for energy conservation and other purposes; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the construction and acquisition of the project, the financing of the construction and acquisition, and the placing of the project in operation.

4. "Obligation" means an obligation issued by the authority under this division.

Sec. 5. **NEW SECTION. 261A.35 ACTIONS OF AUTHORITY.**

The authority is authorized to assist institutions in the constructing, financing, and refinancing of projects, and the authority may take action authorized by this division.

Sec. 6. **NEW SECTION. 261A.36 ISSUANCE OF OBLIGATIONS.**

The authority may issue obligations of the authority for any of its corporate purposes as provided for in this division, and fund or refund the obligations pursuant to this division.

Sec. 7. **NEW SECTION. 261A.37 LOANS AUTHORIZED.**

The authority may make loans to an institution for the cost of a project in accordance with an agreement between the authority and the institution, except that a loan shall not exceed the total cost of the project, as determined by the institution and approved by the authority.

Sec. 8. **NEW SECTION. 261A.38 ISSUANCE OF OBLIGATIONS – CONDITIONS.**

The authority may issue obligations and make loans to an institution and refund, refinance or reimburse outstanding obligations, indebtedness, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by the institution, whether before or after the effective date of this Act, for the cost of a project, when the authority finds that the financing prescribed in this section is in the public interest, and either alleviates a financial hardship upon the institution, results in a lesser cost of education, or enables the institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Sec. 9. **NEW SECTION. 261A.39 GENERAL POWERS OF AUTHORITY.**

The authority may do all things necessary or convenient to carry out the purposes of this division. The authority may charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred on the authority by this division.

Sec. 10. **NEW SECTION. 261A.40 AUTHORITY.**

The authority may undertake a project for two or more institutions jointly or for any combination of institutions, and may combine for financing purposes, with the consent of all of the institutions which are involved, the project and some or all future projects of any institution or institutions, and this division applies to and is for the benefit of the authority and the joint participants. However, the money set aside in a fund or funds pledged for any series or issue of obligations shall be held for the sole benefit of the series or issue separate and apart from money pledged for another series or issue of obligations of the authority. To facilitate the combining of projects, obligations may be issued in series under one or more resolutions or trust agreements and may be fully open-ended, thus providing for the unlimited issuance of additional series, or partially open-ended, limited as to additional series. The authority may permit an institution to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for a project financed under this division on terms and subject to conditions the authority prescribes.

Sec. 11. **NEW SECTION. 261A.41 EXPENSES.**

Expenses incurred in carrying out this division are payable solely from funds provided under this division and a liability or obligation shall not be incurred by the authority beyond the extent to which money is provided under this division.

Sec. 12. **NEW SECTION. 261A.42 OBLIGATIONS.**

The authority may provide by resolution for the issuance of obligations for the purpose of paying, refinancing, or reimbursing all or part of the cost of a project. The authority shall not have outstanding at any one time obligations issued pursuant to this division in an aggregate

principal amount exceeding one hundred fifty million dollars. Except to the extent payable from payments to be made on federally guaranteed securities as provided in section 261A.45, the principal of and the interest on the obligations shall be payable solely out of the revenue of the authority derived from the project to which they relate and from other facilities pledged or made available for this purpose by the institution for whose benefit the obligations were issued. The obligations of each issue shall be dated, shall bear interest at rate or rates, without regard to any limit contained in any other statute or law of the state, and shall mature at times not exceeding forty years from the date of issuance, all as determined by the authority; and may be made redeemable before maturity at the prices and under terms fixed by the authority in the authorizing resolution.

Except as otherwise provided by this division, the obligations are to be paid solely out of the revenue of the project to which they relate and, in certain instances, out of the revenue of certain other facilities, and subject to section 261A.45 with respect to a pledge of government securities, the obligations may be unsecured or secured in the manner and to the extent determined by the authority. The authority shall determine the form of the obligations, including interest coupons, if any, to be attached, and shall fix the denominations of the obligations and the places of payment of principal and interest which may be at any bank or trust company within or without the state. The obligations and coupons attached, if any, shall be executed by the manual or facsimile signatures of officers of the authority designated by the authority. If an official of the authority whose signature or a facsimile of whose signature appears on any obligations or coupons ceases to be an official before the delivery of the obligations, the signature or facsimile, nevertheless, is valid and sufficient for all purposes the same as if the individual had remained an official of the authority until delivery. Obligations issued under this division have all the qualities and incidents of negotiable instruments, notwithstanding this payment from limited sources and without regard to any other law. The obligations may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in the manner as the authority may determine. Provision may be made for the registration of any coupon obligations as to principal alone and also as to both principal and interest, and for the reconversion into coupon obligations of any obligations registered as to both principal and interest. The obligations may be sold in the manner, either at public or private sale, as the authority determines.

The proceeds of the obligations of each issue shall be used solely for the payment of the cost of the project for which the obligations have been issued, and shall be disbursed in the manner and under the restrictions, if any, as the authority provides in the resolution authorizing the issuance of the obligations or in the trust agreement provided for in section 261A.44 securing the obligations. If the proceeds of the obligations of an issue, by error of estimates or otherwise, are less than the costs, additional obligations may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the obligations or in the trust agreement securing them, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the obligations first issued. If the proceeds of the obligations of an issue shall exceed the cost of the project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for the obligations. Prior to the preparation of definitive obligations, the authority may, under like restrictions, issue interim receipts or temporary obligations, with or without coupons, exchangeable for definitive obligations when the obligations have been executed and are available for delivery.

The authority may also provide for the replacement of obligations which become mutilated or are destroyed or lost. Obligations may be issued under this division without obtaining the consent of an officer, department, division, commission, board, bureau, or agency of the state, and without other proceedings or conditions other than those which are specifically required by this division. The authority may purchase its bonds out of funds available for that purpose. The authority may hold, pledge, cancel, or resell the obligations, subject to and in accordance with any agreement with the obligation holders. Members of the authority and any person executing the obligations are not liable personally on the obligations or subject to personal liability or accountability by reason of the issuance of the obligations.

Sec. 13. NEW SECTION. 261A.43 RESOLUTION PROVISIONS.

The resolution authorizing obligations or an issue of obligations may contain provisions, which shall be a part of the contract with the holders of the obligations to be authorized, as to:

1. Pledging or assigning the revenue of the project with respect to which the obligations are to be issued or the revenue of other property or facilities.
2. Setting aside reserves or sinking funds, and the regulation, investment, and disposition of them.
3. Limitations on the use of the project.
4. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied and pledging the proceeds to secure the payment of the obligations or an issue of the obligations.
5. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, and the refunding of outstanding obligations.
6. The procedure, if any, by which the terms of any contract with obligation holders may be amended or abrogated, the amount of obligations the holders of which must consent to the amendment or abrogation, and the manner in which the consent may be given.
7. Limitations on the amount of money derived from the project to be expended for operating, administrative, or other expenses of the authority.
8. Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of the holders in the event of a default.
9. Mortgaging a project and the project site or other property for the purpose of securing the obligation holders.
10. Other matters relating to the obligations which the authority deems desirable.

Sec. 14. NEW SECTION. 261A.44 OBLIGATIONS SECURED BY TRUST AGREEMENT.

Obligations issued under this division may be secured by a trust agreement by and between the authority and an incorporated trustee, which may be a trust company or bank having the powers of a trust company within or without the state. The trust agreement or the resolution providing for the issuance of the obligations may pledge or assign the revenue to be received or proceeds of any contract pledged and may convey or mortgage the project or any portion of the project. A pledge or assignment made by the authority pursuant to this section is valid and binding from the time that the pledge or assignment is made, and the revenue pledged and thereafter received by the authority is immediately subject to the lien of the pledge or assignment without physical delivery or any further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created or an assignment made shall be filed or



recorded in the records of the authority, with the secretary of state, and in each county in which the project is located. The trust agreement or resolution providing for the issuance of the obligations may contain provisions for protecting and enforcing the rights and remedies of the obligation holders as are reasonable and proper, not in violation of law, or provided for in this division. A bank or trust company incorporated under the laws of this state which acts as depository of proceeds of the obligations, revenue, or other money shall furnish the indemnifying obligations or pledge the securities as required by the authority. The trust agreement may set forth the rights and remedies of the obligation holders and of the trustee, and may restrict the individual right of action by obligation holders. The trust agreement or resolution may contain other provisions the authority deems reasonable and proper for the security of the obligation holders. Expense incurred in carrying out the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

Sec. 15. **NEW SECTION. 261A.45 OBLIGATIONS ISSUED TO ACQUIRE FEDERALLY GUARANTEED SECURITIES.**

The authority may finance the cost of a project, refund outstanding indebtedness, or reimburse advances from an endowment or similar fund of an institution as authorized by this division, by issuing its obligations pursuant to a plan of financing involving the acquisition of a federally guaranteed security or the acquisition or entering into of commitments to acquire a federally guaranteed security. For the purposes of this section, "federally guaranteed security" means any direct obligation of, or obligation the principal of and interest on which are fully guaranteed or insured by the United States, or an obligation issued by, or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States, including without limitation an obligation that is issued pursuant to the National Housing Act, or any successor provision of law.

The authority may acquire or enter into commitments to acquire a federally guaranteed security and pledge or otherwise use the federally guaranteed security in the manner the authority deems in its best interest to secure or otherwise provide a source of repayment of its obligations issued to finance or refinance a project, or may enter into an appropriate agreement with an institution whereby the authority may make a loan to the institution for the purpose of acquiring or entering into commitments to acquire a federally guaranteed security. An agreement entered into pursuant to this section may contain provisions deemed necessary or desirable by the authority for the security or protection of the authority or the holders of the obligations, except that the authority, prior to making an acquisition, commitment, or loan, shall determine and enter into an agreement with the institution or another appropriate institution to require that the proceeds derived from the acquisition of a federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project.

The obligations issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing the project as determined by the participating institution and approved by the authority, except that the costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire a federally guaranteed security and to the issuance and obtaining of insurance or guarantee of an obligation issued or incurred in connection with a federally guaranteed security. In other respects the bonds are subject to this division, and the trust agreement creating the bonds may contain provisions set forth in this division as the authority deems appropriate.

If a project is financed or refinanced pursuant to this section, the title to the project shall remain in the participating institution owning the project, subject to the lien of a mortgage or security interest securing, directly or indirectly, the federally guaranteed securities being purchased or to be purchased.

Sec. 16. NEW SECTION. 261A.46 OBLIGATIONS NOT LIABILITY OF STATE OR POLITICAL SUBDIVISION.

Obligations issued pursuant to this division are not debts of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any political subdivision, but the obligations are limited obligations of the authority payable solely from the funds or securities, pledged for their payment as authorized in this division, unless the obligations are refunded by refunding obligations issued under this division, which refunding obligations shall be payable solely from funds or securities pledged for their payment as authorized in this division. All revenue obligations shall contain on their face a statement to the effect that the obligations, as to both principal and interest, are not obligations of the state, or of any political subdivision of the state, but are limited obligations of the authority payable solely from revenue or securities pledged for their payment. Expenses incurred in carrying out this division are payable solely from funds provided under this division, and this division does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

Sec. 17. NEW SECTION. 261A.47 MONEY RECEIVED BY AUTHORITY.

All money received by the authority, whether as proceeds from the sale of obligations, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this division, but prior to the time when needed for use may be invested to the extent and in the manner provided by the authority. The funds shall be deposited, held, and secured as determined by the authority, except to the extent provided otherwise in the resolution authorizing the issuance of the related obligations or in the trust agreement securing the obligations. The resolution authorizing the issuance of the obligations or the trust agreement securing the obligations shall provide that an officer, bank or trust company to which the money is entrusted shall act as trustee of the money and shall hold and apply the money for the purposes of this division, subject to the provisions of this division and of the authorizing resolution or trust agreement.

Sec. 18. NEW SECTION. 261A.48 HOLDERS OF OBLIGATIONS.

A holder of obligations or of the coupons pertaining to obligations and the trustee under a trust agreement, except to the extent the rights given in this division are restricted by the authorizing resolution or trust agreement, may, by suit, mandamus, or other proceedings, protect and enforce any and all rights under the laws of this state, or under the trust agreement or resolution authorizing the issuance of the obligations, and may enforce and compel the performance of all duties required by this division or by the trust agreement or resolution to be performed by the authority or by an officer, employee, or agent of the authority, including the fixing, charging, and collecting of fees and charges authorized in this division and required by the resolution or trust agreement to be fixed and collected.

The rights of holders include the right to compel the performance of all duties of the authority required by this division or the resolution or trust agreement, to enjoin unlawful activities, and in the event of default with respect to the payment of any principal of, premium, if any, and interest on an obligation or in the performance of a covenant or agreement on the part of the authority in the resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate the project, the revenue of which is pledged to the payment of the principal of, premium, if any, and interest on the obligations, the receiver to have

full power to pay and to provide for payment of the principal of, premium, if any, and interest on the obligations, and to have the powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, including the power to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations, but excluding any power to pledge additional revenue of the authority to the payment of the principal, premium, and interest.

Sec. 19. NEW SECTION. 261A.49 BONDHOLDERS – PLEDGE – AGREEMENT OF THE STATE.

The state pledges to and agrees with the holders of any obligations issued under this division, and with those parties who enter into contracts with the authority pursuant to this division, that the state will not limit or alter the rights vested in the authority until the obligations, together with the interest on the obligations, are fully met and discharged and the contracts are fully performed on the part of the authority, except that this section does not preclude the limitation or alteration if and when adequate provision is made by law for the protection of the rights of the holders of the obligations of the authority or those entering into contracts with the authority.

Sec. 20. NEW SECTION. 261A.50 PROVISIONS CONTROLLING.

The powers granted the authority under this division are in addition to the powers of the authority contained in other provisions of this chapter. All other provisions of this chapter apply to obligations issued pursuant to and powers granted the authority under this division, except to the extent they are inconsistent with this division.

Approved May 29, 1985

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## CHAPTER 211

### SHARED SCHOOL PROGRAMS

*H.F. 210*

**AN ACT** relating to the weighting per pupil for shared programs of school districts.

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

Section 1. Section 442.39, subsection 2, Code 1985, is amended to read as follows:

2. Pupils attending classes in another school district or an area school, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of one plus ~~one-tenth~~ five tenths times the percent of the pupil's school day during which the pupil attends classes in another district or area school, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district if the school budget review committee certifies to the state comptroller that the shared classes or teachers would otherwise not be implemented without the assignment of additional weighting. However, in lieu of the additional weighting of five tenths, the school budget review committee shall assign an additional weighting of one tenth times the percent of the pupil's schoolday in which a pupil attends classes in another district or an area school, attends classes taught by a teacher who is employed jointly under section 280.15, or

attends classes taught by a teacher who is employed by another district, in districts that have a substantial number of students in any of grades seven through twelve sharing more than one class or teacher.

Sec. 2. Notwithstanding section 1 of this Act, for the budget year beginning July 1, 1986 only, the state comptroller shall determine the state aid required to finance the cost of the additional weighting provided in section 1 of this Act. If the state aid required to meet section 1 of this Act exceeds two million dollars, the state comptroller shall reduce the weights proportionally so that the state aid paid under section 1 of this Act does not exceed two million dollars.

Sec. 3. This Act takes effect for computations required for payment of state aid and levying of property taxes under the state school foundation program for the school year beginning July 1, 1986.

Approved May 29, 1985

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**CHAPTER 212**  
EDUCATIONAL DEVELOPMENT  
*H.F. 686*

**AN ACT** relating to plans and programs for educational development in Iowa.

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

Section 1. Section 257.11, Code 1985, is amended to read as follows:

**257.11 SUPERINTENDENT COMMISSIONER APPOINTED.**

The state board shall appoint, effective July 1, ~~1979~~ 1987, and each four years thereafter, with the approval of two-thirds of the members subject to confirmation of the senate, a superintendent commissioner of public instruction. The state board shall evaluate and may dismiss the commissioner.

Sec. 2. Section 257.12, Code 1985, is amended by striking the section and inserting the following:

**257.12 QUALIFICATIONS OF COMMISSIONER.**

Commencing July 1, 1987, the commissioner shall be an individual with a background in education and administration experience. The deputy commissioner shall also meet these criteria.

Sec. 3. Section 257.25, subsection 2, Code 1985, is amended to read as follows:

2. ~~If a school offers a kindergarten program, the~~ The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protection and development of physical being. A kindergarten teacher shall hold a certificate certifying that the holder is qualified to teach in kindergarten. An approved non-public school must meet the requirements of this subsection only if the nonpublic school offers a kindergarten program.

Sec. 4. **NEW SECTION. 257.45 STANDARDS FOR APPROVED SCHOOLS.**

Commencing July 1, 1985, the state board shall review the standards contained in section 257.25, shall review current literature relating to effective schools and learning environments, and shall consult with representatives from the higher education institutions, area education agencies, school board members, school administrators, teachers, parents, students, members of business, industry and labor, other governmental agencies, associations interested in education, and representatives of communities of various sizes to develop standards for approved schools and school districts that encompass, but are not limited to the following general areas:

1. Objectives and assessment procedures for teaching specific competencies related to higher order thinking skills, learning skills, and communications skills.
2. Integration of the applications of current technologies into the general curriculum.
3. Procedures for curriculum development and refinement.
4. Staff development processes.
5. A performance evaluation process for personnel.
6. Use of support staff.
7. A specific number of hours per year for students to be engaged in formal academic instruction.
8. Learning opportunities for students whose needs are not met in the conventional classroom.
9. Career exploration activities and specific vocational education programs.
10. Curriculum standards that include the coordination of extracurricular and academic education goals.
11. Student responsibility and discipline policies.
12. Needs assessments and development of long-range plans as provided for in section 280.12.
13. Community and parent involvement in the education process.
14. Communication with business, industry, labor, and higher education regarding their expectations for adequate student preparation.

Notwithstanding the standards included in section 257.25, not later than July 1, 1987, the state board shall adopt new standards for approved schools. The standards shall be adopted under chapter 17A and shall require that schools and school districts meet the standards adopted by the state board not later than July 1, 1989.

Following adoption of the standards, the department of public instruction shall assist schools and school districts to comply with the standards.

The state board, in consultation with the boards of directors and the administration of the school districts, shall determine not later than July 1, 1989, on the basis of evidence submitted by the school districts, which school districts meet the approval standards adopted by the state board.

Thereafter the state board shall require that once every three years schools and school districts submit evidence that they meet the approval standards. One third of the schools and school districts shall be reviewed each year.

Section 257.25, subsection 12, applies to schools and school districts not meeting the approval standards.

Sec. 5. Section 258.7, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**258.7 VOCATIONAL EDUCATION COUNCIL.**

A state council on vocational education is established, consisting of thirteen members, which shall be appointed by the governor. The term of a member is three years. The effective

date of appointment shall comply with applicable federal law, or July 1 if federal law does not apply.

The council shall advise the state board and shall perform other functions as necessary in order for the state of Iowa to qualify for federal aids and grants to vocational education.

Seven members of the council shall represent the private sector and six members shall equitably represent secondary and postsecondary vocational institutions. Appointments shall be in compliance with the requirements of federal law. The governor shall insure that there is as nearly as possible equitable representation of both sexes, appropriate representation of racial and ethnic minorities, and appropriate geographic representation.

The council shall meet at the call of the chairperson at least once each quarter of the year.

Sec. 6. Notwithstanding the three-year terms in section 258.7, the governor shall initially appoint five members to the vocational education council for terms of one year, four members for terms of two years, and four members for terms of three years with their terms beginning April 1, 1985.

Sec. 7. Section 275.1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

It is ~~declared to be~~ the policy of the state to encourage economical and efficient school districts which will ensure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining kindergarten and twelve grades. If ~~any a school district ceases to maintain kindergarten and twelve grades except as otherwise provided in sections 280.15, 257.28, and 282.7, subsection 1, it shall reorganize within six months or the state board shall attach the school district not maintaining kindergarten and twelve grades to one or more adjacent districts.~~ Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous to one another. A reorganized district shall meet the requirements of section 275.3.

Sec. 8. Section 280.12, Code 1985, is amended to read as follows:

**280.12 EVALUATION OF EDUCATIONAL PROGRAM.**

1. The board of directors of each public school district and the authorities in charge of each nonpublic school shall:

- 1 a. Determine major educational needs and rank them in priority order.
- 2 b. Develop long-range goals and plans to meet ~~such the~~ needs.
- 3 c. Establish and implement ~~continuously evaluated year-by-year~~ short-range and intermediate-range plans to meet the goals and to attain the desired levels of pupil achievement performance.

4 d. ~~Maintain~~ Evaluate progress toward meeting the goals and maintain a record of progress under the plan that includes reports of pupil performance and results of school improvement projects.

5 e. Report progress made under the plan at least annually to the advisory committee appointed under subsection 2, the community and the department of public instruction. Make ~~such other reports of progress as the superintendent commissioner of public instruction shall require~~ requires.

2. In meeting the requirements of subsection 1, a board of directors or the authorities in charge of a nonpublic school shall appoint an advisory committee to make recommendations to the board or authorities. The advisory committee shall consist of members representing students, parents, teachers, administrators, and representatives from the community.

Sec. 9. Section 280.15, Code 1985, is amended to read as follows:

**280.15 JOINT EMPLOYMENT AND SHARING.**

~~Any two~~ Two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities. Classes made available to students in the manner provided in this section shall be considered as complying with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades by a school district.

Sec. 10. NEW SECTION. 280.16 APPROPRIATE INSTRUCTIONAL PROGRAM REVIEW.

Pursuant to the procedures established in chapter 290, a student's parent or guardian may obtain a review of an action or omission of the board of directors of the district of residence of the student on either of the following grounds:

1. That the student has been or is about to be denied entry or continuance in an instructional program appropriate for that student.
2. That the student has been or is about to be required to enter or continue in an instructional program that is inappropriate for that student.

If the state board of public instruction finds that a student has been denied an appropriate instructional program, or required to enter an inappropriate instructional program, the state board shall order the resident district to provide or make provision for an appropriate instructional program for that student.

Sec. 11. Section 280A.1, Code 1985, is amended by adding the following new subsection:  
NEW SUBSECTION. 5A. Programs for students of high school age to provide advanced college placement courses not taught at a student's high school while the student is also enrolled in the high school.

Sec. 12. Section 280A.25, subsection 9, Code 1985, is amended to read as follows:

9. Make arrangements with boards of merged areas and local school districts to permit students attending high school to participate in vocational-technical programs and advanced college placement courses and obtain credit for such participation for application toward the completion of a high school diploma. The granting of such credit shall be subject to the approval of the state board.

Sec. 13. Section 282.7, subsection 1, Code 1985, is amended to read as follows:

1. The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having approved school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the approved school district designated for attendance. Only entire grades may be discontinued under this subsection and if a grade is discontinued, all higher grades in that district shall also be discontinued. A school district that has discontinued one or more grades under this subsection has complied with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades. A pupil who graduates from another school district under this subsection shall receive a diploma from the receiving district. Tuition shall be paid by the resident district as provided in section 282.24, subsection 2. The agreement shall provide for ~~tuition,~~ transportation, and authority and liability of the affected boards.

Sec. 14. The state board of regents and the state board of public instruction shall meet during the fiscal year beginning July 1, 1985, to develop a plan for offering remedial education for students enrolled in public higher education institutions in this state that coordinates the efforts of the state board of regents institutions and the area schools. Recommendations shall be submitted to the general assembly by January 15, 1986.

Sec. 15. By January 15, 1986, the state board of public instruction shall develop and implement a plan to encourage students to enroll in the colleges and departments of education within the institutions of higher education in this state.

By January 15, 1986, the state board shall submit a report to the general assembly detailing the plans and implementation methods.

Sec. 16. By January 1, 1987, the state board of public instruction shall develop in cooperation with other educational agencies and associations and persons interested in education, for dissemination to school districts, model policies and curricula for each of the following:

1. Policies that provide for the development of student responsibility and that prescribe discipline policies for students.

2. Policies that address the issue of student employment.

3. A model curriculum for teaching computer skills and for using computers in the classroom.

4. A model curriculum for teaching teachers to use computers as an instructional aid.

5. A model curriculum for vocational/career education programs that emphasize career exploration with a focus on the development of transferable competencies and skills adaptable to a wide choice of occupations.

6. Models of a competency-based curriculum developed using concepts related to higher order thinking skills, learning skills, and communications skills.

7. Model processes that can be used by school districts for determining major educational needs and goals and for developing plans to meet those goals.

Sec. 17. By March 1, 1986, the state board of public instruction shall report to the general assembly the actions it has taken regarding the following:

1. Developing model competency testing procedures for academic competencies and higher order thinking skills. The procedures shall be developed after input from established statewide advisory committees and shall include the following:

a. The testing procedures shall be a model for local school districts.

b. The testing procedures shall focus on students in grades 6 and 7 and grades 10 and 11.

c. The results of the competency test shall not be the basis for successful completion of a grade but rather shall be used for appropriate counseling and remedial work for the students performing below established levels.

d. The procedures may encompass means other than written tests to determine student competencies.

2. Developing and utilizing a survey instrument at least once every two years to obtain information regarding the competencies and skills that business, industry, and labor in the state desire of entry-level employees and the extent to which the entry-level employees possess these competencies and skills. Using workshops and written publications, the department shall disseminate the compilation of information on a regular basis to the secondary schools and merged area schools in the state.

3. Encouraging and facilitating the sharing of nonathletic activity programs among local school districts to meet the diversity of needs and interests of the students in the district.

4. Soliciting information from public and private colleges and universities about the expectations for academic preparation of high school students and develop and use a plan to articulate those expectations to high school students and their schools.

Sec. 18. By July 1, 1986, the state board of public instruction shall implement each of the following concepts and shall report its actions to the general assembly:

1. Collect, compile and disseminate information about the costs of extracurricular activity programs offered by local school districts in a manner to permit comparison.



2. Review and revise, if necessary, the basic educational data system survey instrument utilized by the department.

3. Develop and utilize a process for the dissemination of information gathered by the research and development function of the department to local school districts and other individuals seeking the information.

4. Develop and utilize a process for enhancing the exchange of information relating to educational development and improvement procedures between and among local school districts, area education agencies, and merged area schools.

5. Review and revise, if necessary, the internal structure and organization of the department.

6. Review and revise, if necessary, the evaluation process used for employees of the department.

7. Coordinate the review of the program evaluation report issued by the legislative fiscal bureau in March, 1984, regarding the responsibilities of area education agencies.

Sec. 19. The board of educational examiners shall adopt requirements for approved teacher education programs that mandate the completion of a specified period of practical experience for candidates for administrative endorsement.

Sec. 20. By January 15, 1986, the state board of public instruction shall develop recommendations for implementing each of the following concepts and shall report the recommendations to the general assembly:

1. Maintaining the concept of a thirteen-year educational program, but providing preschool education.

2. Providing coordination and planning among educational agencies for the implementation of short courses or in-service programs to assist school administrators developing evaluation processes to assess the performance of employees.

3. Developing a process within the department that provides for the conducting of research and development activities on pertinent educational issues and disseminating the results of that research.

Sec. 21. Sections 8.6, 17.3, 18.136, 19A.3, 19A.9, 64.6, 92.21, 139.9, 257.10, 257.18, 257.19, 257.23, 257.24, 257.25, 258.3, 258.13, 259A.4, 259A.5, 260.15, 260.28, 261.1, 273.3, 273.11, 274.42, 274.43, 274.44, 274.45, 275.3, 275.4, 276.4, 280.3, 280A.2, 280A.33, 281.9, 281.12, 282.19, 282.24, 282.27, 283A.3, 283A.4, 283A.5, 284.2, 285.1, 285.4, 285.5, 285.12, 285.13, 286A.6, 286A.11, 286A.12, 290.5, 291.9, 291.10, 291.11, 291.15, 294.5, 297.32, 299.24, 302.13, 442.7, 442.12, 442.13, 442.23, 601F.3, 714.18, and 714.22, Code 1985, are amended by striking the words "superintendent of public instruction" and "state superintendent of public instruction" wherever they appear in those sections and inserting in lieu thereof the words "commissioner of public instruction".

Sec. 22. Sections 257.10, 257.13, 257.14, 257.15, 257.18, 257.19, 257.20, 257.21, 257.22, 257.24, 257.25, 260.3, 260.15, 280.3, 280A.2, 281.1, 283A.4, 285.6, 285.12, 290.5, 291.10, and 299.24, Code 1985, are amended by striking the words "superintendent" or "state superintendent" wherever they appear in those sections and inserting the word "commissioner".

Sec. 23. Sections 257.14, 257.18, 257.22, 257.23, 258.13, 285.12, and 290.5, Code 1985, are amended by striking the word "superintendent's" wherever it appears in those sections and inserting the word "commissioner's".

Sec. 24. Sections 275.16, 280.13, 280A.33, 285.8, and 286A.10, Code 1985, are amended by striking the words "state department" wherever they appear in those sections and inserting the word "department".

Approved May 29, 1985

**CHAPTER 213**  
**EDUCATION RESEARCH FOUNDATION**  
*H.F. 773*

**AN ACT** to establish an education research foundation, to prescribe its functions, and to make an appropriation.

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

Section 1. **NEW SECTION. 257A.1 FIRST IN THE NATION IN EDUCATION.**

There is created a corporate body called "First In the Nation in Education, an education foundation". The foundation is an independent nonprofit quasi-public instrumentality and the exercise of the powers granted to the foundation as a corporation in this chapter is an essential governmental function. As used in this chapter "foundation" means "First In the Nation in Education, an education foundation". The purposes of the foundation include but are not limited to the following:

1. Providing statewide leadership in identifying both immediate and long-range education issues for which a knowledge base is needed.
2. Conducting basic research in education issues.
3. Collecting, analyzing, and disseminating education information generated in other states and countries as well as in this state.
4. Establishing linkages with regional education laboratories and research institutes.
5. Establishing strategies and developing materials and practices to implement the results of the research.
6. Developing and supporting innovative and cooperative programs for school districts.
7. Making the results of research available in forms that are most useful to practitioners and policymakers.

Sec. 2. **NEW SECTION. 257A.2 GOVERNING BOARD.**

The foundation shall be administered by a governing board consisting of seven members appointed by the governor subject to senate confirmation. Members shall be knowledgeable about education, research, or fund-raising activities in this state. Statewide associations interested in education may submit the names of potential members to the governor, but the governor is not bound by the recommendations.

Sec. 3. **NEW SECTION. 257A.3 BOARD REQUIREMENTS.**

1. Members of the board shall be appointed by the appointing authority for staggered terms of six years beginning and ending as provided in section 69.19. Vacancies shall be filled in the same manner as the original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term.
2. Members of the board shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties from funds available to the foundation.
3. Members shall elect a chairperson and vice chairperson annually. A majority of the members of the board constitute a quorum. The executive director shall serve as secretary to the board.
4. Meetings of the board shall be held at least quarterly at the call of the chairperson or at the request of a majority of the members of the board.

Sec. 4. NEW SECTION. 257A.4 NONPROFIT CORPORATION.

The foundation as a nonprofit corporation created in section 257A.1 has perpetual succession. The succession shall continue until the existence of the corporation is terminated by law. If the corporation is terminated, the rights and properties of the corporation shall pass to the state. However, debts and other financial obligations shall not succeed to the state.

Sec. 5. NEW SECTION. 257A.5 DUTIES OF THE BOARD.

The governing board, within the limits of the funds available to it, shall:

1. Employ an executive director to direct the activities of the foundation and such other employees as deemed necessary by the board. Employees shall be selected on a nonpartisan basis and are employees of the state but are exempt from chapter 19A.

2. Determine a site for the location of the foundation. The board may execute a contract with a governmental agency for leasing facilities for the foundation, but the foundation shall retain its independent status.

3. Approve a long-range plan relating to the conduct of educational research and development activities.

4. Determine the research and development activities to be undertaken, based upon an assessment of the education needs in this state from early childhood education to adult education.

5. Execute contracts with public and private agencies to conduct research and development activities.

6. Perform functions necessary to carry out the purposes of the foundation.

7. Disseminate information developed as a result of research and development activities in forms usable by education personnel.

8. Establish advisory committees to assist the foundation in carrying out its purposes. The advisory committees shall include as members representatives of state associations interested in education in this state.

9. Annually report the results of its activities to the general assembly.

Sec. 6. NEW SECTION. 257A.6 DUPLICATION.

Research activities of the foundation shall not duplicate educational research efforts taking place in Iowa's colleges and universities unless for validation or confirmation of research results.

Sec. 7. NEW SECTION. 257A.7 FUND CREATED.

1. Moneys received by the foundation shall be deposited in a special fund in the office of the treasurer of state known as the "First In the Nation in Education Fund". Moneys deposited in the fund shall not be expended, but shall be invested by the treasurer of state in investments authorized for the Iowa public employees' retirement fund in section 97B.7, unless the purposes set forth in the appropriations, grants, or gifts preclude the use of these moneys solely for investment. Interest income shall be paid quarterly from the fund to the foundation.

2. The foundation may accept grants, gifts, and bequests, including but not limited to appropriations, federal funds, and other funding available for educational research and development purposes. Moneys accepted under this subsection shall be deposited in the fund.

Sec. 8. Notwithstanding sections 8.6, 257A.7, 292.1, 302.1, and 302.13, from the annual apportionment of the interest of the permanent school fund, there is appropriated to the first in the nation in education, an education foundation, for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of one hundred thousand (100,000) dollars for salaries, support, education research, and miscellaneous purposes.

Sec. 9. Notwithstanding section 257A.2, for the initial board, the members shall be appointed to staggered terms that commence July 1, 1985 and end as provided in section 69.19.

Sec. 10. It is the intent of the general assembly that funds be appropriated by the general assembly on a continuing basis commencing with the fiscal year beginning July 1, 1986 for deposit in the fund created in section 257A.7 so that sufficient interest income can be realized from appropriations and gifts for the performance of the duties of the foundation.

Approved May 29, 1985

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**CHAPTER 214**  
**DISCRIMINATION IN HIGHER EDUCATION**  
*H.F. 648*

**AN ACT** relating to the schools subject to the provisions of chapter 601A on sex discrimination in education.

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

Section 1. Section 601A.9, unnumbered paragraph 2, Code 1985, is amended to read as follows:

For the purpose of this section "educational institution" includes any ~~public~~ preschool, ~~or~~ elementary, secondary, or merged area school, ~~or~~ area education agency, or postsecondary college or university and their governing boards. ~~Nothing in this~~ This section shall be construed to does not prohibit any an educational institution from maintaining separate toilet facilities, locker rooms or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting (1) any bona fide religious institution from imposing qualifications based on religion when such qualifications are related to a bona fide religious purpose or (2) any institution from admitting students of only one sex.

Approved May 29, 1985

**CHAPTER 215**  
**EDUCATIONAL LEAVE AND ASSISTANCE**  
*H.F. 713*

**AN ACT** relating to educational leave and educational assistance for state employees.

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

Section 1. Section 79.1, unnumbered paragraph 8, Code 1985, is amended to read as follows:

The head of any department, agency, or commission may grant an educational leave to employees for whom the head of the department, agency, or commission is responsible pursuant to section 79.25 and funds appropriated by the general assembly may be used for such purposes. The head of such department, agency, or commission shall notify the legislative council and the state comptroller of all educational leaves granted within fifteen days of the granting of the educational leave. If the head of a department, agency or commission fails to notify the legislative council and state comptroller of an educational leave the expenditure of funds appropriated by the general assembly for the educational leave shall not be allowed.

Sec. 2. **NEW SECTION. 79.25 EDUCATIONAL LEAVE — EDUCATIONAL ASSISTANCE.**

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

a. "Educational assistance" means reimbursement for tuition, fees, books or other expenses incurred by a state employee in taking coursework at an educational institution or attending a workshop, seminar or conference without a reduction in ordinary job responsibilities and that the appointing authority determines contributes to the growth and development of the employee in the employee's present position.

b. "Educational leave" means full or partial absence from an employee's ordinary job responsibilities either with full or partial pay or without pay, to attend a course of study at an educational institution or a course of study conducted by a reputable sponsor on behalf of an educational institution. Educational leave may include reimbursement for all or a portion of educational expenses incurred.

c. "Educational leave and educational assistance" do not apply to job training and employee development programs and departmental seminars that are conducted or sponsored by a state agency for the exclusive benefit of employees of that state agency.

2. **GENERAL APPLICABILITY.** The purpose of educational leave with full or partial pay and educational assistance is to assist state employees to develop skills that will improve their ability to perform their present job responsibilities or in the case of educational leave to also provide training and educational opportunities for employees of a state agency that will enable the agency director to better meet the staffing needs of the state agency.

The state comptroller shall not allow the payment of expenses for courses unless the department, agency or commission can demonstrate a relationship between the employee's job responsibilities and the courses to be taken or that the employee is required to learn new skills for which the department, agency or commission has a need.

### 3. REPORTING AND REVIEW.

a. The state comptroller shall periodically and at least annually review the implementation of educational leave and educational assistance programs by state agencies.

b. The head of each state agency, department or commission shall report to the state comptroller and the legislative council not later than October 1 of each year the direct and indirect costs to the agency of educational leave and educational assistance granted to agency employees during the preceding fiscal year. The report shall include an estimate of costs saved by the state agency, department or commission through the use of educational leave and educational assistance. As used in this subsection "indirect costs" includes but is not limited to, adjustments in employee work assignments and agency operations necessitated by educational leave or assistance.

c. The report to the state comptroller and legislative council shall identify the relationship of each course to the employee who is granted educational leave and how the course may improve the employee's job performance or the task to be accomplished within the agency.

d. The report to the state comptroller and the legislative council shall also include:

(1) The number of employees who were granted educational leave and the amount of tuition reimbursement allowed by the department, agency or commission.

(2) The number of employees who were granted a leave from work to attend the classes and who continued to receive their salary and the number of hours of work which those employees were excused.

(3) The number of employees who were granted a temporary leave of absence from work to attend the classes without pay and the amount of time missed.

Approved May 29, 1985

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## CHAPTER 216

### SUN VALLEY LEGALIZING ACT

*H.F. 762*

**AN ACT** to legalize the proceedings for the organization, establishment, boundaries and election and tenure of office of the board of trustees of the Sun Valley sanitary district in the township of Union, county of Ringgold and declaring the district a duly and legally organized corporate body as provided by law and further declaring all trustees duly and legally elected and holding office as provided by law.

WHEREAS, The Sun Valley sanitary district in the township of Union, county of Ringgold, was organized, established and the boundaries created and a board of trustees elected at a special election held on February 26, 1985 under Iowa Code chapter 358 and the existence of the district and the tenure of office of the trustees is of general public interest and vital to the public interest and welfare of the area contained within the boundaries of the sanitary district; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the proceedings for the organization, establishment and boundaries of the district and the validity and legal sufficiency of the election of the board of trustees and the tenure of office of the trustees and it is deemed advisable and necessary to put such doubts and all others that might arise concerning said matters forever at rest; NOW THEREFORE,

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

Section 1. That all proceedings taken and elections held in connection with the organization, establishment, and fixing of boundaries of the Sun Valley sanitary district in the township of Union, county of Ringgold, are declared to be valid, legal and sufficient to organize and establish the body corporate and politic known as the Sun Valley sanitary district, and are legalized and the sanitary district is declared to be a legal entity under and for the purposes contemplated in Iowa Code chapter 358 and the boundaries of the sanitary sewer district are legalized, validated and confirmed as follows:

The West Half (W 1/2) of the Southwest Quarter (SW 1/4) and the South three-quarters (S 3/4) of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4), all in Section 14, Township 70 North, Range 28, West of 5th P.M.

The Southeast Quarter (SE 1/4) and the South Half (S 1/2) of the Northeast Quarter (NE 1/4) and the East Half (E 1/2) of the East Half (E 1/2) of the Southwest Quarter (SW 1/4) and a tract of land in the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) described as commencing at the Southeast corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), thence North 660 feet, thence West 200 feet, thence Southwest to a point 660 feet West of the Southeast corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), thence East to the place of beginning; also a tract of land described as commencing at a point 660 feet North of the Southeast corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), thence West 220 feet, thence Northeasterly to a point 810 feet North of the Southeast corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), thence South 150 feet to the place of beginning, all in Section 15, Township 70 North, Range 28 West of 5th P.M., containing 6.8 acres more or less.

The South 441.5 feet of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of Section 20, Township 70 North, Range 28 West of 5th P.M.

The South Half (S 1/2) of the Northwest Quarter (NW 1/4) and the North 100 feet of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) and the North Half (N 1/2) of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) excepting the South 100 feet thereof, and the Southeast Quarter (SE 1/4), and the South Half (S 1/2) of the Northeast Quarter (NE 1/4) and the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) all in Section 21, Township 70 North, Range 28 West of 5th P.M., Ringgold County, Iowa.

The West Half (W 1/2), and the West Half (W 1/2) of the Northeast Quarter (NE 1/4) and the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) and the North Half (N 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4), and a tract of land in the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4), described as commencing at the Northwest corner of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4), thence East 460 feet to a point thence Southeasterly to a point 860 feet West of the Northeast corner of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4), thence Westerly 860 feet to a point and thence North to the point of beginning, all in Section 22, Township 70 North, Range 28 West of 5th P.M., Ringgold County, Iowa.

Sec. 2. That all proceedings taken and the election held in connection with the election of the board of trustees and their tenure of office, of the Sun Valley sanitary district in the township of Union, county of Ringgold are declared to be valid, legal and sufficient, and the election of trustees and their tenure of office are legalized, validated and confirmed, and the board of trustees is declared to have been legally elected for the tenure of office ending June 30, 1988, all as contemplated by Iowa Code chapter 358.

Approved May 29, 1985

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## CHAPTER 217

### AREA EDUCATION AGENCY ADMINISTRATOR STAFF DEVELOPMENT

*S.F. 254*

**AN ACT** relating to administrative endorsements and certificates issued by the board of educational examiners.

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

Section 1. **NEW SECTION. 260.8 ADMINISTRATIVE ENDORSEMENTS.**

The board of educational examiners shall develop and adopt a staff development program for individuals receiving endorsements as administrators or certified as area education agency administrators. Administrative endorsements and certificates are valid for five years from issuance. Successful completion of the staff development program is required every five years before the endorsement or certificate is renewed by the board.

Sec. 2. This Act is effective for all administrative endorsements and certificates issued by the board of educational examiners. However, for individuals who have been issued an administrative endorsement or certificate before July 1, 1985, the staff development program must be successfully completed by July 1, 1990.

Approved May 29, 1985



**CHAPTER 218**  
**STATEWIDE LIBRARY SERVICES**  
*S.F. 250*

**AN ACT** relating to the provision of statewide library services by the reorganization of the state library of Iowa and the regional library system.

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

Section 1. NEW SECTION. 303A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "State library" means the state library of Iowa established in section 303A.3.
2. "Commission" means the state library commission of Iowa.
3. "State agency" means a legislative, executive, or judicial office of the state and all of its respective officers, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.
4. "State publications" means all multiple-produced publications regardless of format which are issued by a state agency and supported by public funds, but it does not include:
  - a. Correspondence and memoranda intended solely for internal use within the agency or between agencies.
  - b. Materials excluded from this definition by the commission through the adoption and enforcement of rules pursuant to section 303A.4.

Sec. 2. NEW SECTION. 303A.2 PURPOSES.

The purposes of the state library are to meet the informational needs of the three branches of state government, to provide for the improvement of library services to all Iowa citizens, and to foster development and cooperation among libraries.

Sec. 3. NEW SECTION. 303A.3 STATE LIBRARY AND COMMISSION ESTABLISHED.

1. There is established a state library of Iowa governed by a seven-member commission. The commission consists of one member appointed by the state supreme court and six members appointed by the governor to serve four-year, overlapping terms beginning and ending as provided in section 69.19. Of the governor's appointees, one member shall be from the medical profession and five members selected at large. Of the appointees to the initial commission, three gubernatorial appointees shall be appointed to an initial term of two years. Thereafter, all appointments shall be for a four-year term. Not more than three of the members appointed by the governor shall be of the same gender. Members of the commission shall receive per diem of forty dollars while engaged in their official duties. The members shall also be reimbursed for their actual and necessary travel and other official expenditures necessitated by their official duties.

2. The commission shall elect one of its members as chairperson. The commission shall meet at the time and place as specified by call of the chairperson. At least one meeting shall be held bimonthly. Four members are a quorum for the transaction of business.

Sec. 4. NEW SECTION. 303A.4 POWERS AND DUTIES OF THE COMMISSION.

In carrying out the purposes of section 303A.1, the commission:

1. May receive and expend money for providing programs and services. The commission may receive, accept, and administer any moneys appropriated or granted to it, separate from the general library fund, by the federal government or by any other public or private agency.

2. May enter into interstate library compacts on behalf of the state of Iowa with any state which legally joins in the compacts as provided in section 303A.8.

3. Shall appoint and evaluate the state librarian who shall have a master's degree in librarianship from a program of study accredited by the American library association and who may be terminated for good cause.

4. Shall determine policy for providing information service to the three branches of state government and to the legal and medical communities in this state.

5. Shall develop and adopt, in conjunction with the Iowa regional library system, long-range plans for the continued improvement of library services in the state. To insure that the concerns of all types of libraries are addressed, the commission shall establish a long-range planning committee to review and evaluate progress and report findings and recommendations to the commission and to the trustees of the Iowa regional library system at an annual meeting.

6. Shall develop in cooperation with the Iowa regional library system an annual plan of service for the Iowa regional library system and its individual members to insure consistency with the state long-range plan.

7. Shall coordinate a statewide interregional interlibrary loan and information network among libraries in this state and support activities which increase cooperation among all types of libraries.

8. Shall establish and administer a statewide continuing education program for librarians and trustees.

9. Shall give to libraries advice and counsel in specialized areas which may include, but are not limited to, building construction and space utilization, children's services, and technological developments.

10. Shall obtain from libraries reports showing the condition, growth and development of services provided and disseminate this information in a timely manner to the citizens of Iowa.

11. Shall foster public awareness of the condition of libraries in Iowa and of methods to improve library services to the citizens of the state.

12. Shall establish and administer standards for state agency libraries, the Iowa regional library system, and public libraries.

13. Shall establish and administer certification guidelines for librarians not covered by other accrediting agencies.

14. Shall establish and administer a program for the collection and distribution of state publications to depository libraries.

15. Shall adopt and enforce rules under chapter 17A and perform other acts necessary to carry out its powers and duties under this chapter.

Sec. 5. NEW SECTION. 303A.5 DUTIES OF STATE LIBRARIAN.

The state librarian shall:

1. Organize, staff, and administer the state library.

2. Recommend to the commission policies pertaining to library services as necessary for carrying out the provisions of this chapter.

3. Prepare a budget for the approval of the commission and administer the budget when approved.

4. Cooperate with the members of the Iowa regional library system, state agency libraries and representatives of the Iowa library community in considering and developing plans for the improvement of library services.

5. Advise and counsel with the commission on all matters pertaining to library and information services.

6. Carry out all policies of the commission not inconsistent with state law.

**Sec. 6. NEW SECTION. 303A.6 STATE PUBLICATIONS.**

Upon issuance of a state publication, a state agency shall deposit with the state library at no cost to the state library, seventy-five copies of the publication or a lesser number if specified by the state library.

**Sec. 7. NEW SECTION. 303A.7 LIBRARY DEPARTMENTS.**

The state library shall include, but is not limited to, a medical library department and a law library department.

1. The medical library department shall be headed by a medical librarian, appointed by the state librarian with the approval of the commission, subject to chapter 19A. The medical librarian shall:

a. Operate the medical library department which shall always be available for free use by the residents of Iowa under rules the commission adopts.

b. Give no preference to any school of medicine and shall secure books, periodicals, and pamphlets for every legally recognized school of medicine without discrimination.

c. Perform other duties imposed by law or prescribed by the rules of the commission.

2. The law library department shall be headed by a law librarian, appointed by the state librarian with the approval of the commission and the Iowa supreme court, subject to chapter 19A. The law librarian shall:

a. Operate the law library department which shall be maintained in the state capitol or in rooms convenient to the state supreme court and which shall be available for free use by the residents of Iowa under rules the commission adopts.

b. Maintain, as an integral part of the law library, reports of various boards and agencies and copies of bills, journals and other information relating to current or proposed legislation.

c. Arrange to make exchanges of all printed material published by the several states and the government of the United States.

d. Perform other duties imposed by law or by the rules of the commission.

Sec. 8. Section 303B.1, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**303B.1 REGIONAL LIBRARY SYSTEM ESTABLISHED — PURPOSES.**

A regional library system is established to provide supporting services to libraries and to encourage local financial support for library services.

Sec. 9. Section 303B.4, Code 1985, is amended to read as follows:

**303B.4 TERMS.**

Regional library trustees shall take office on the first day of January following the general election and shall serve terms of four years, ~~except that trustees elected to the initial board in the year 1974 shall determine their respective terms by lot so that three members shall serve terms of two years and four members shall serve terms of four years.~~ A vacancy shall be filled when it occurs not less than ninety days before the next general election by appointment by the regional board for the unexpired term. No trustee shall serve on a local library board or be employed by a library during the trustee's term of office as a regional library trustee.

Sec. 10. Section 303B.6, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**303B.6 POWERS AND DUTIES OF REGIONAL TRUSTEES.**

In carrying out the purposes of section 303B.1, each board of trustees:

1. Shall appoint and evaluate a qualified administrator who shall have a master's degree in librarianship from a program of study accredited by the American library association and who may be terminated for good cause.

2. Subject to the approval of the annual plan of service by the state library commission, may receive and expend state appropriated funds.

3. May receive and expend other funds and receive and expend gifts of real property, personal property or mixed property, and devises and bequests including trust funds; may take title to the property; may execute deeds and bills of sale for the conveyance of the property; and may expend the funds received from the gifts.

4. May accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the regional library to accept and administer trusts deemed by the board to be beneficial to the operation of the regional library. Notwithstanding section 633.63, the board and the nonprofit foundation may act as trustees in these instances. The board shall require that moneys belonging to a nonprofit foundation be audited annually.

5. May contract with libraries, library agencies, private corporations or individuals to improve library service.

6. May acquire land and construct or lease facilities to carry out the provisions of this chapter.

7. Shall provide consultation and educational programs for library staff and trustees concerning all facets of library management and operation.

8. Shall provide interlibrary loan and information services intraregionally, but which are capable of being linked interregionally, according to the standards developed by the state library commission.

9. Shall develop and adopt, in cooperation with other members of the regional library system and the state library of Iowa, a long-range plan for the region.

10. Shall prepare, in cooperation with all members of the regional library system and the state library commission, an annual plan of service.

11. Shall provide data and prepare reports as directed by the state library commission.

12. Shall require, as a condition for receiving services, that a governmental subdivision assure maintenance of local effort to support the operating expenses of a local library.

13. May perform other acts necessary to carry out its powers and duties under this chapter.

Sec. 11. Section 303B.7, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**303B.7 DUTIES OF THE REGIONAL ADMINISTRATOR.**

A regional administrator shall:

1. Act as administrator and executive secretary of the region in accordance with the objectives and policies adopted by the regional board and with the intent of this chapter.

2. Organize, staff, and administer the regional library so as to render the greatest benefit to libraries and information services in the area.

3. Advise and counsel with the regional board of trustees and individual libraries in all matters pertaining to the improvement of library services in the region.

4. Cooperate with other members of the regional library system, the state library of Iowa and representatives of the Iowa library community in considering and developing plans for the improvement of library services in Iowa.

5. Carry out the policies of the regional board of trustees not inconsistent with state law.

Sec. 12. Section 303B.8, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

**303B.8 ALLOCATION AND ADMINISTRATION OF FUNDS.**

1. Funds appropriated for the purpose of carrying out this chapter shall be allocated to regional boards by the state library commission as follows:

- a. Sixty percent in proportion to the population served by each regional board.
- b. Twenty-five percent proportioned equally among the regional boards.
- c. Fifteen percent in proportion to the geographic area served by each regional board.

2. In addition to funds received under subsection 1, a regional library board may individually or cooperatively apply to the state library commission for available grants.

Sec. 13. Section 18.97, subsection 19, Code 1985, is amended to read as follows:

19. To the ~~depository library center established pursuant to section 303A.22~~ state library of Iowa . . . . 1 copy for each depository library

Sec. 14. The terms of office of members of the state library commission serving unexpired terms immediately prior to the effective date of this Act expire on the effective date of this Act.

Sec. 15. Sections 303A.1 through 303A.7, 303A.21 through 303A.24, and 303B.8A, Code 1985, are repealed.

Approved May 29, 1985

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**CHAPTER 219**  
**COLLEGE STUDENT ASSISTANCE**  
*S.F. 156*

**AN ACT** relating to programs administered by the Iowa college aid commission, to establish an Iowa college work-study program, and to change the method of administering the state scholarship program.

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

Section 1. **NEW SECTION. 261.67 WORK-STUDY PROGRAM.**

The Iowa college work-study program is established to stimulate and promote the part-time employment of students attending Iowa postsecondary educational institutions who are in need of employment earnings in order to pursue postsecondary education. The program shall be administered by the commission. The commission shall adopt rules under chapter 17A to carry out the program. The employment under the program shall be employment by the postsecondary education institution itself or work in a public agency or private nonprofit organization under a contract between the institution and the agency or organization. The work shall not result in the displacement of employed workers or impair existing contracts for services.

Sec. 2. NEW SECTION. 261.68 DUTIES OF COLLEGE AID COMMISSION.

The college aid commission shall:

1. Enter into agreements with eligible postsecondary education institutions for participation in the program.
2. Allocate funds to participating postsecondary education institutions if funds are available to the commission for that purpose.
3. Review reports from participating postsecondary education institutions.
4. Conduct program reviews and audits of participating postsecondary education institutions.
5. Accept gifts, grants, and other aid from public and private persons or agencies.

Sec. 3. NEW SECTION. 261.69 DUTIES OF INSTITUTIONS.

An eligible postsecondary education institution is an institution of higher education under the state board of regents, a merged area school, or an accredited private institution as defined in section 261.9, subsection 5. The commission may enter into an agreement with an eligible postsecondary education institution under which the commission will make grants to the institution for the work-study program.

The participating institution shall:

1. File the proper forms with the commission for participation in the program.
2. Develop jobs that meet the requirements of the Iowa college work-study program. To the extent possible, the job should complement the student's educational program and career goal.
3. Supervise and evaluate employment and maintain the records required by the commission.
4. Participate in the federal work-study program.

Sec. 4. NEW SECTION. 261.70 STUDENT ELIGIBILITY.

In order to be eligible, a student must:

1. Be a citizen of the United States and a resident of this state.
2. Be enrolled and making satisfactory academic progress or accepted for enrollment at an eligible postsecondary institution on a half-time or greater basis.
3. Demonstrate financial need. A student's need shall be determined on the basis of a need analysis system approved for use under the federal work-study program.
4. Have not defaulted on an Iowa guaranteed student loan or on a loan guaranteed by the federal government.

Approved May 29, 1985

**CHAPTER 220**  
**TUITION REFUNDS**  
*S.F. 271*

**AN ACT** relating to refund of tuition policies of certain postsecondary institutions and to prescribe a penalty.

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

Section 1. **NEW SECTION. 714.23 REFUND POLICIES.**

A person offering a course of instruction at the postsecondary level, for profit, that is more than four months in length and leads to a degree, diploma, or license, shall make a pro rata refund of eighty-five percent of the tuition for a terminating student to the appropriate agency based upon the ratio of completed number of school days to the total school days of the school term or course. However, if the financial obligations of a student are for three or fewer months duration, this section does not apply.

Refunds shall be paid to the appropriate agency within thirty days following the student's termination.

If the student terminates later than three weeks after the course of instruction has commenced, the person offering the course of instruction cannot admit a student to replace the student for which a refund was received for the remaining portion of the school term or course.

A violation of this section is a simple misdemeanor.

Approved May 29, 1985

**CHAPTER 221**  
**SCHOOL REORGANIZATION**  
*S.F. 398*

**AN ACT** relating to school reorganization.

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

Section 1. Section 275.14, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Objection forms shall be prescribed by the department of public instruction and may be obtained from the area education agency administrator. Objection forms that request that property be removed from a proposed district shall include the correct legal description of the property to be removed.

Sec. 2. Section 275.15, Code 1985, is amended to read as follows:

**275.15 HEARING — DECISION — PUBLICATION OF ORDER — APPEAL.**

At the hearing, which shall be held within ten days of the final date set for filing objections, interested parties, both petitioners and objectors, may present evidence and arguments, and the area education agency board shall review the matter on its merits and within five ten days after the conclusion of any hearing, shall rule on the objections and shall enter an order fixing such the boundaries for the proposed school corporation as will in its judgment be for the best interests of all parties concerned, having due regard for the welfare of adjoining districts or dismiss the petition.

**PARAGRAPH DIVIDED.** The area education agency board, when entering the order fixing the boundaries, shall consider all requests timely filed for boundary line changes of property owners who reside on property adjacent to the proposed boundary lines.

If the petition is not dismissed and the board determines that additional information is required in order to fix boundary lines of the proposed school corporation, the board may continue the hearing for no more than thirty days. The date of the continued hearing shall be announced at the original meeting. Additional objections in the form required in section 275.14 may be considered if filed with the administrator within five days after the date of the original board hearing. If the hearing is continued, the area education agency administrator may conduct one or more meetings with the boards of directors of the affected districts. Notice of any such meeting must be given at least forty-eight hours in advance by the area education agency administrator in the manner provided in section 21.4. The area education agency board may request that the administrator make alternative recommendations regarding the boundary lines of the proposed school corporation. The area education agency board shall make a decision on the boundary lines within ten days following the conclusion of the continued hearing.

**PARAGRAPH DIVIDED.** The agency administrator shall at once publish this order the decision in the same newspaper in which the original notice was published. Within twenty days after the publication thereof, the decision rendered by the area education agency board may be appealed to the district court in the county involved by any school district affected. For purposes of appeal, only those school districts who filed reorganization petitions



are school districts affected. An appeal from a decision of an area education agency board or joint area education agency boards under section 275.4, 275.16, or this section is subject to appeal procedures under this chapter and is not subject to appeal under chapter 290.

Sec. 3. Section 275.16, unnumbered paragraph 1, Code 1985, is amended to read as follows:

If the territory described in the petition for the proposed corporation lies in more than one area education agency, the agency administrator with whom the petition is filed shall fix the time and place for a hearing and call a joint meeting of the members of all the agency boards in which any territory of the proposed school corporation lies, to act as a single board for the hearing of the objections, and a majority of members of each of the agency boards of the different agencies in which any part of the proposed corporation lies, constitutes a quorum. The president of the board of directors of the area education agency in which the petition has been filed, or a member of the board designated by the president, shall preside at the joint meeting. The joint boards acting as a single board shall determine whether the petition conforms to plans or, if the petition requests a change in plans, whether a change should be made, and may change the plans of any or all the area education agency boards affected by the petition, ~~and it.~~ The joint board shall determine and fix boundaries for the proposed corporation as provided in section 275.15 or dismiss the petition. The joint board may continue the hearing as provided in section 275.15.

PARAGRAPH DIVIDED. Votes of each member of an area education agency board in attendance shall be weighted so that the total number of votes eligible to be cast by members of each board in attendance shall be equal. However, if the joint boards cast a tie vote and are unable to agree to ~~an order a decision~~ fixing the boundaries for the proposed school district corporation or to an order a decision to dismiss the petition, the time during which actions must be taken under section 275.15 shall be extended from five days to fifteen days after the conclusion of the hearing under section 275.15, and the joint board shall reconvene not less than ten and not more than fifteen days after the conclusion of the hearing. At the hearing the joint board shall reconsider its action and if a tie vote is again cast it is ~~an order a decision~~ granting the petition and changing the plans of any and all of the agency boards affected by the petition and fixing the boundaries for the proposed school corporation. The agency administrator shall at once publish the decision in the same newspaper in which the original notice was published.

Sec. 4. Section 275.18, Code 1985, is amended to read as follows:

275.18 SPECIAL ELECTION CALLED – TIME.

When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of the proposed school corporation have been determined as provided in this chapter, the area education agency administrator with whom the petition is filed shall give written notice of the proposed date of the election to the county commissioner of elections of the county in the proposed school corporation which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to sections 39.2, subsections 1 and 2, and 47.6, subsections 1 and 2, but not later than November 30 of the calendar year prior to the calendar year in which the reorganization will take effect.

PARAGRAPH DIVIDED. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition, if more than one county is involved, by one publication in a legal newspaper in each county other than that of the first publication. The publication shall be not less than four nor more than twenty days prior to the election. If the decision published pursuant to section 275.15 or 275.16 includes a

description of the proposed school corporation and a description of the director districts, if any, the notice for election and the ballot do not need to include these descriptions. Notice for an election shall not be published until the expiration of time for appeal, which shall be the same as that provided in section 275.15 or 275.16, whichever is applicable; and if there is an appeal, not until the appeal has been disposed of.

Sec. 5. Section 275.25, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The board of the newly formed district shall appoint an acting superintendent and an acting board secretary. The appointment of the acting superintendent shall not be subject to the continuing contract provision of sections 279.20, 279.23, and 279.24.

Sec. 6. Section 275.29, Code 1985, is amended to read as follows:

275.29 DIVISION OF ASSETS AND LIABILITIES AFTER REORGANIZATION.

Between July 1 and July 20, the board of directors of the newly formed community school district shall meet with the boards of all the old districts, or parts of districts, affected by the organization of the new school corporation for the purpose of reaching joint agreement on an equitable division of the assets of the several school corporations or parts of school corporations and an equitable distribution of the liabilities of the affected corporations or parts of corporations. In addition, if outstanding bonds are in existence in any district, the boards shall meet together prior to March 15 prior to the school year the reorganization is effective to determine the distribution of the bonded indebtedness between the districts so that the newly formed district may certify its budget under the procedures specified in chapter 24. The boards shall consider the mandatory levy required in section 76.2 and shall assure the satisfaction of outstanding obligations of each affected school corporation.

Sec. 7. Section 275.31, Code 1985, is amended to read as follows:

275.31 TAXES TO EFFECT EQUALIZATION.

If necessary to equalize such the division and distribution, the board or boards may provide for the levy of additional taxes, which shall be sufficient to satisfy the mandatory levy required in section 76.2 or other liabilities of the districts, upon the property of any a corporation or part of a corporation and for the distribution of the same tax revenues so as to effect such equalization. When the board or boards are considering the equalization levy, the division and distribution shall not impair the security for outstanding obligations of each affected corporation.

Sec. 8. Section 275.33, Code 1985, is amended to read as follows:

275.33 CONTRACTS NOT AFFECTED.

1. The terms of employment of superintendents, principals, and teachers, for the school year following the effective date of the formation of the new district shall not be affected by the formation of the new district, except in accordance with the provisions of sections 279.15 to 279.18 and 279.24 and the authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to sections 275.12, 275.13, 275.15 to 275.21, 275.23, and 275.24 for the school year beginning with the effective date of the reorganization shall be transferred from the boards of the existing districts to the board of the new district on the third Tuesday of January prior to the school year the reorganization is effective.

2. The collective bargaining agreement of the district with the largest basic enrollment, as defined in section 442.4, in the new district shall continue in full force and effect until a successor agreement is negotiated serve as the base agreement and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contract for the following year without further action by the public employment relations

board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall continue in full force and effect until a successor agreement is negotiated serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contract for the following year without further action by the public employment relations board. The board of the newly formed district, using the base agreement as its existing contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by March 15 prior to the school year in which the reorganization becomes effective or within one hundred twenty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement.

The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts as provided in subsection 1 of this section.

Sec. 9. Section 275.41, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 9.** The board of the newly formed district shall appoint an acting superintendent and an acting board secretary. The appointment of the acting superintendent shall not be subject to the continuing contract provision of sections 279.20, 279.23, and 279.24.

Approved May 29, 1985

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**CHAPTER 222**  
**ABANDONED PROPERTY**  
*H.F. 696*

**AN ACT** relating to abandoned property, by providing for a civil action, providing for the issuance of injunctions and other orders, and providing for appointing a receiver with certain powers, duties, and liability.

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

Section 1. **NEW SECTION. 657A.1 DEFINITIONS.**

As used in this chapter, unless context requires otherwise:

1. "Abandoned" or "abandonment" means that a building has remained vacant and has been in violation of the housing code of the city in which the property is located for a period of six consecutive months.

2. "Abate" or "abatement" in connection with property means the removal or correction of hazardous conditions deemed to constitute a public nuisance or the making of improvements needed to effect a rehabilitation of the property consistent with maintaining safe and habitable conditions over the remaining useful life of the property. However, the closing or boarding up of a building or structure that is found to be a public nuisance is not an abatement of the nuisance.

3. "Building" means a building or structure located in a city with a population of thirty-five thousand or more, as determined by the last preceding certified federal census, which is used or intended to be used for residential purposes and includes a building or structure in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes.

4. "Interested person" means an owner, mortgagee, lienholder, or other person that possesses an interest of record or an interest otherwise provable in property that becomes subject to the jurisdiction of the court pursuant to this chapter, the city in which the property is located, and an applicant for the appointment as receiver pursuant to this chapter.

5. "Neighboring landowner" means an owner of property which is located within five hundred feet of property that becomes subject to the jurisdiction of the court pursuant to this chapter.

6. "Owner" includes a person who is purchasing property by land installment contract or under a duly executed purchase contract.

7. "Public nuisance" means a building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

#### Sec. 2. NEW SECTION. 657A.2 PETITION.

1. A petition for abatement under this chapter may be filed in the district court of the county in which the property is located, by the city in which the property is located, a neighboring landowner, or a duly organized nonprofit corporation which has as one of its goals the improvement of housing conditions in the county or city in which the property in question is located. Service on the owner shall be by personal service or by certified mail, or if service cannot be made by either method, by posting the notice in a conspicuous place on the building and by publication.

2. If a petition filed pursuant to this chapter alleges that a building is abandoned and is in a dangerous or unsafe condition, the city, neighboring landowner, or nonprofit corporation may apply for an injunction requiring the owner of the building to correct the condition or to eliminate the condition or violation. The court shall conduct a hearing at least twenty days after written notice of the application for an injunction and of the date and time of the hearing is served upon the owner of the building. Notice of the hearing shall be served in the manner provided in subsection 1.

3. If the court finds at the hearing that the building is abandoned and is in a dangerous or unsafe condition, the court shall issue an injunction requiring the owner to correct the condition or to eliminate the violation, or another order that the court considers necessary or appropriate to correct the condition or to eliminate the violation.

4. In a proceeding under this chapter, if the court makes the finding described in subsection 3 and additionally finds that the building in question is a public nuisance and that the owner of the building has been afforded reasonable opportunity to correct the dangerous or unsafe condition found or to eliminate the violation found but has refused or failed to do so, the judge shall cause notice of the findings to be served upon the owner, each mortgagee or other lienholder of record, and other known interested persons, and shall order the persons served to show cause why a receiver should not be appointed to perform work and to furnish material that reasonably may be required to abate the public nuisance. The notice shall be served in the manner provided in subsection 1.

5. In a proceeding under this chapter, if the court determines the building is not abandoned or is not in a dangerous or unsafe condition, the court shall dismiss the petition and may require the petitioner to pay the owner's reasonable attorney fees actually incurred.

**Sec. 3. NEW SECTION. 657A.3 INTERESTED PERSONS — OPPORTUNITY TO ABATE PUBLIC NUISANCE.**

1. Before appointing a receiver to perform work or to furnish material to abate a public nuisance under this chapter, the court shall conduct a hearing at which the court shall offer mortgagees of record, lienholders of record, or other known interested persons in the order of priority of interest in title, the opportunity to undertake the work and to furnish the materials necessary to abate the public nuisance. The court shall require the person selected to demonstrate the ability to undertake promptly the work required and to post security for the performance of the work. All amounts expended by the person toward abating the public nuisance are a lien on the property if the expenditures were approved in advance by the judge and if the person desires the lien. The lien shall bear interest at the rate provided for judgments pursuant to section 535.3, and shall be payable upon terms approved by the judge. If a certified copy of the court order that approved the expenses and the terms of payment for the lien, and a description of the property in question are filed for record within thirty days of the date of issuance of the order in the office of the county recorder of the county in which the property is located, the lien has the same priority as the mortgage of a receiver as provided in section 657A.7.

2. If the court determines at the hearing conducted pursuant to section 657A.3, subsection 1, that no interested person can undertake the work and furnish the materials required to abate the public nuisance, or if the court determines at any time after the hearing that an interested person who is undertaking corrective work pursuant to this section cannot or will not proceed, or has not proceeded with due diligence, the court may appoint a receiver to take possession and control of the property. The receiver shall be appointed in the manner provided in section 657A.4.

**Sec. 4. NEW SECTION. 657A.4 APPOINTMENT OF RECEIVER.**

1. After conducting a hearing pursuant to section 657A.3, the court may appoint a receiver to take possession and control of the property in question. A person shall not be appointed as a receiver unless the person has first provided the court with a viable financial and construction plan for the rehabilitation of the property in question and has demonstrated the capacity and expertise to perform the required work in a satisfactory manner. The appointed receiver may be a financial institution that possesses an interest of record in the property, a nonprofit corporation that is duly organized and exists for the primary purpose of improving housing conditions in the county or city in which the property in question is located, or any person deemed qualified by the court. No part of the net earnings of a nonprofit corporation serving as a receiver under this section shall benefit a private shareholder or individual. Membership

on the board of trustees of a nonprofit corporation does not constitute the holding of a public office or employment and is not an interest, either direct or indirect, in a contract or expenditure of money by a city. No member of a board of trustees of a nonprofit corporation appointed as receiver is disqualified from holding public office or employment, nor is a member required to forfeit public office or employment by reason of the membership on the board of trustees.

**Sec. 5. NEW SECTION. 657A.5 DETERMINATION OF COSTS OF ABATEMENT.**

1. Prior to ordering work or the furnishing of materials to abate a public nuisance under this chapter, the court shall make all of the following findings:

a. The estimated cost of the labor, materials, and financing required to abate the public nuisance.

b. The estimated income and expenses of the property after the furnishing of the materials and the completion of the repairs and improvements.

c. The need for and terms of financing for the performance of the work and the furnishing of the materials.

d. If repair and rehabilitation of the property are not found to be feasible, the cost of demolition of the property or the portions of the property that constitute the public nuisance.

2. Upon the written request of all the known interested persons to have the property or portions of the property demolished, the court may order the demolition. However, demolition shall not be ordered unless the requesting persons have paid the costs of demolition, the costs of the receivership, and all notes and mortgages of the receivership.

**Sec. 6. NEW SECTION. 657A.6 POWERS AND DUTIES OF RECEIVER.**

Before proceeding with the receiver's duties, a receiver appointed by the court shall post a bond in an amount designated by the court. The court may empower the receiver to do the following:

1. Take possession and control of the property, operate and manage the property, establish and collect rents and income, lease and rent the property, and evict tenants. An existing housing or building ordinance violation does not restrict the receiver's authority pursuant to this subsection.

2. Pay all expenses of operating and conserving the property, including but not limited to the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes, assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent.

3. Pay prereceivership mortgages and other liens and installments of prereceivership mortgages and other liens.

4. Perform or enter into contracts for the performance of work and the furnishing of materials necessary to abate the public nuisance, and obtain financing for the abatement of the public nuisance.

5. Pursuant to court order, remove and dispose of personal property which is abandoned, stored, or otherwise located on the property, that creates a dangerous or unsafe condition or that constitutes a violation of housing or building regulations or ordinances.

6. Obtain mortgage insurance for a receiver's mortgage from an agency of the federal government.

7. Enter into agreements and take actions necessary to maintain and preserve the property and to comply with housing and building regulations and ordinances.

8. Give the custody of the property and the opportunity to abate the nuisance and operate the property to the owner or to a mortgagee or a lienholder of record.

9. Issue notes and secure the notes by mortgages bearing interest at the rate provided for judgments pursuant to section 535.3, and terms and conditions as approved by the court. When transferred by the receiver in return for valuable consideration in money, material, labor, or services, the notes issued by the receiver are freely transferable.

**Sec. 7. NEW SECTION. 657A.7 PRIORITY OF RECEIVER'S MORTGAGE.**

1. If the receiver's mortgage is filed for record in the office of the county recorder of the county in which the property is located within sixty days of the issuance of a secured note, the receiver's mortgage is a first lien upon the property and is superior to claims of the receiver and to all prior or subsequent liens and encumbrances except taxes and assessments. Priority among the receiver's mortgages is determined by the order in which the mortgages are recorded.

2. The creation of a mortgage lien under this chapter prior to or superior to a mortgage of record at the time the receiver's mortgage lien was created does not disqualify a prior recorded mortgage as a legal investment.

**Sec. 8. NEW SECTION. 657A.8 ASSESSMENT OF COSTS.**

The court may assess the costs and expenses set out in section 657A.6, subsection 2, and may approve receiver's fees to the extent that the fees are not covered by the income from the property.

**Sec. 9. NEW SECTION. 657A.9 DISCHARGE OF RECEIVER.**

The receiver may be discharged at any time in the discretion of the court. The receiver shall be discharged when all of the following have occurred:

1. The public nuisance has been abated.
2. The costs of the receivership have been paid.

3. Either all the receiver's notes and mortgages issued pursuant to this chapter have been paid, or all the holders of the notes and mortgages request in writing that the receiver be discharged.

**Sec. 10. NEW SECTION. 657A.10 COMPENSATION AND LIABILITY OF RECEIVER.**

1. A receiver appointed under this chapter is entitled to receive fees and commissions in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

2. The receiver appointed under this section is not civilly or criminally liable for actions pursuant to this section taken in good faith.

**Sec. 11. NEW SECTION. 657A.11 JURISDICTION — REMEDIES.**

1. An action pursuant to this chapter is exclusively within the jurisdiction of district judges as provided in section 602.6202.

2. This chapter does not prevent a person from using other remedies or procedures to enforce building or housing ordinances or to correct or remove public nuisances.

Approved May 30, 1985

**CHAPTER 223**  
**SALES TAX EXEMPTION**  
*S.F. 574*

**AN ACT** relating to when electricity, steam, and other taxable services used to produce marketable food products for human consumption are sold for processing for purposes of the processing exemption under the state sales, services and use tax.

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

Section 1. Section 422.42, subsection 3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

"Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing or for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services, and the sale of gas, electricity, water, and communication service to retail consumers or users, but does not include commercial fertilizer or agricultural limestone or materials, but not tools or equipment, which are to be used in disease control, weed control, insect control or health promotion of plants or livestock produced as part of agricultural production for market, or electricity or steam or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that ~~such~~ the property shall by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail, or shall be consumed as fuel in creating heat, power, or steam for processing including grain drying or for generating electric current, or be consumed in implements of husbandry engaged in agricultural production, or ~~such~~ the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides ~~shall be deemed~~ is a retail sale for purposes of the processing exemption.

Approved May 30, 1985



**CHAPTER 224****CONTRIBUTION RATE FOR UNEMPLOYMENT COMPENSATION***S.F. 383*

**AN ACT** relating to the establishment of a special unemployment compensation contribution rate for certain expanding employers.

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

Section 1. NEW SECTION. 96.7A EXPANDING EMPLOYMENT INCENTIVE.

1. An employer qualified for an experience rating with a positive balance in the employer's account shall receive a reduction in the employer's average annual payroll due to an increase in employment if the employer's numerical increase in employment is equal to or greater than one under both paragraphs "a" and "b" and if the increase in the employer's average annual payroll is not totally disregarded under subsection 2 due to an increase in taxable wages under section 96.19, subsection 20 or due to the fact that the employer is a successor employer.

a. The employer's increase in employment, calculated by number of employees, equals the average mid-month employment reported by the employer for the calendar year immediately preceding the computation date minus the four-year average mid-month employment reported by the employer for the four calendar years preceding the calendar year which immediately precedes the computation date.

b. The employer's increase in employment, calculated by amount of taxable wages, equals the taxable wages reported by the employer for the calendar year immediately preceding the computation date minus the four-year average of the taxable wages reported by the employer for the four calendar years preceding the calendar year which immediately precedes the computation date, divided by the taxable wage base for the calendar year immediately preceding the computation date.

2. The reduction in the current average annual payroll of an employer qualified under subsection 1 equals fifty percent of any increase in the employer's current average annual payroll over the employer's average annual payroll for the previous year. However, in calculating the increase in the employer's average annual payroll any portion of that increase due to an increase or decrease in taxable wages under section 96.19, subsection 20, or due to the fact that the employer is a successor employer shall be disregarded. The employer's average annual payroll for the next two consecutive years shall each be reduced by the amount of the reduction in the employer's current average annual payroll, unless the employer is entitled to a greater reduction in the employer's average annual payroll as calculated under this section, in which case the greater reduction is applicable for three years unless a yet greater reduction is applicable.

3. The department shall use the employer's average annual payroll to compute the employer's percentage of excess, shall compute the employer's percentage of excess rank by ranking the employer's percentage of excess relative to all other employers' percentages of excess, shall recompute the employer's percentage of excess by using the employer's reduced average annual payroll, and shall assign the employer the contribution rate in the rate table

which corresponds to the employer's reduced percentage of excess rank without adjusting the total taxable wages in each rank and without reranking employers in the rate table.

Sec. 2. This Act takes effect on the first computation date after this Act's enactment on which the unemployment compensation fund's balance is positive. However, this Act is null and void from its effective date if the final decision of the United States Department of Labor holds that this Act places Iowa's unemployment compensation law out of conformity with federal law.

Approved May 30, 1985

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## CHAPTER 225

### BONDS

*S.F. 449*

**AN ACT** relating to bonding by amending the definition of small business for purposes of the Iowa housing finance authority's program for which bonds may be issued, by removing the limits on the amount of bonds and notes of the Iowa housing finance authority that may be outstanding or used for certain programs, and by providing for allocation of the state ceiling on private activity bonds for tax exempt purposes and making the provisions effective upon publication.

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

Section 1. Section 220.1, subsection 28, unnumbered paragraph 1, Code 1985, is amended to read as follows:

"Small business" means a profit or nonprofit business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

Sec. 2. Section 220.26, subsections 1 and 3, Code 1985, are amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. ~~However, the authority shall not have a total principal amount of bonds and notes outstanding at any time in excess of six hundred fifty million dollars plus a total of fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37 and to finance loans to provide solar and other renewable energy systems for and to increase the energy efficiency of small businesses under the Iowa small business loan program. Two hundred fifty million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.~~

3. The maximum amount of bonds and notes issued by the authority which may be outstanding at any time shall be set by statute. Bonds and notes must be authorized by a resolution of the authority. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

Sec. 3. NEW SECTION. 7C.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Private Activity Bond Allocation Act."

Sec. 4. NEW SECTION. 7C.2 DECLARATION OF INTENT.

It is the intention of the general assembly in enacting this chapter to:

1. Implement Act section 621 of the Deficit Reduction Act of 1984, Pub. L. No. 98-369, by providing a different formula for allocating the state ceiling among the various governmental units which are authorized to issue private activity bonds under the laws of this state.

2. Maximize the availability of the state ceiling to the issuers of private activity bonds within the state and thereby maximize the economic benefit to the citizens of the state from the issuance of private activity bonds.

Sec. 5. NEW SECTION. 7C.3 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954 as has been and may from time to time be amended.

2. "State ceiling" means the same as defined in section 103(n) of the Internal Revenue Code of 1954.

3. "Bond" or "private activity bond" means a private activity bond as defined in section 103(n) of the Internal Revenue Code of 1954.

4. "Issuer" means a city or county within the state or a not-for-profit corporation, agency, authority or other entity acting on behalf of a city, county, or the state which is authorized under the laws of the state to issue private activity bonds.

5. "Carryforward project" means carryforward project as defined in section 103(n) of the Internal Revenue Code of 1954.

6. "Allocation" means that portion of the state ceiling which is allocated and certified to an issuer by the governor's designee pursuant to section 7C.7 with respect to an issue of bonds for a specific project or purpose.

7. "Governor's designee" means the person, agency, or authority designated by the governor to administer this chapter.

Sec. 6. NEW SECTION. 7C.4 MAXIMUM AMOUNT OF BONDS.

The aggregate principal amount of bonds which may be issued by all issuers during a calendar year shall not exceed the state ceiling for that calendar year, except as provided in section 7C.8.

Sec. 7. NEW SECTION. 7C.5 FORMULA FOR ALLOCATION.

The state ceiling shall be allocated among all issuers on the basis of the chronological order of receipt by the governor's designee of the applications described in section 7C.6.

Sec. 8. NEW SECTION. 7C.6 APPLICATION FOR ALLOCATION.

An issuer which proposes to issue bonds for a particular project or purpose must make an application, which application may be made by the beneficiary of the project or purpose or by a person acting on behalf of the beneficiary, for an allocation of a portion of the state ceiling, prior to the issuance of the bonds, by submitting an application to the governor's designee, in the form prescribed by the governor's designee, which contains, where appropriate, the following information:

1. Name and mailing address of the issuer.
2. Name of the chief elected executive officer of the issuer.
3. Name or description and location by mailing address or other definitive description of the project for which the allocation is requested.
4. Name and mailing address of both the initial owner, beneficiary, or operator of the project and an appropriate person from whom information regarding the project or purpose can be obtained.
5. Date of adoption by the governing body of the issuer of an inducement or other preliminary resolution for the purpose of taking "official action" as required by the United States treasury regulations promulgated under section 103 of the Internal Revenue Code of 1954, if the bonds require the taking of "official action" under the Internal Revenue Code of 1954.
6. Amount of the state ceiling which the issuer is requesting be allocated to the bonds.
7. Other information which the governor's designee deems reasonably required to carry out the purposes of this chapter.

Sec. 9. NEW SECTION. 7C.7 CERTIFICATION OF ALLOCATION.

Upon the receipt of a completed application, the governor's designee shall promptly certify to the issuer the amount of the state ceiling allocated to the bonds for the purpose or project with respect to which the application was submitted. The allocation shall remain valid for ninety days from the date the allocation is certified, subject to the following conditions:

1. If the bonds are issued and delivered for the purpose or project within the ninety-day period, the issuer or the issuer's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee, in such form or manner as the governor's designee may prescribe, of the date of issuance and the delivery of the bonds, and the actual principal amount of bonds issued and delivered. If the actual principal amount of bonds issued and delivered is less than the amount of the allocation, the amount of the allocation is automatically reduced to the actual principal amount of the bonds issued and delivered.

2. If the issuer does not reasonably expect to issue and deliver the bonds within the ninety-day period and evidence of an executed, valid and binding agreement to purchase the bonds is obtained from an entity with the legal ability to purchase and this agreement is filed with the governor's designee, the ninety-day allocation period is automatically extended for an additional thirty days. The allocation period shall not be extended beyond that additional thirty days.

3. The allocation is no longer valid after December 31 of the calendar year in which it is certified, except as provided in section 7C.8.

Sec. 10. NEW SECTION. 7C.8 STATE CEILING CARRYFORWARDS.

It is the intention of the general assembly that the maximum use be made of all carryforward provisions in section 103(n) of the Internal Revenue Code of 1954. Therefore, if the aggregate principal amount of bonds issued by all issuers in a calendar year is less than the state ceiling for that calendar year, an issuer may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The governor's designee shall determine the time and manner in which applications for an allocation of excess state ceiling shall be made. However, the procedures for applications shall comply with the carryforward provisions of section 103(n) of the Internal Revenue Code of 1954 and regulations promulgated under that section.

Sec. 11. NEW SECTION. 7C.9 NONBUSINESS DAYS.

If the expiration date of either the ninety-day period or the thirty-day extension period described in subsection 1 or 2 of section 7C.7 is a Saturday, Sunday or any day on which the offices of the state, banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday or other previously described day.

Sec. 12. NEW SECTION. 7C.10 RESUBMISSION OF EXPIRED ALLOCATIONS.

If an allocation becomes no longer valid as provided in section 7C.7, the issuer may resubmit its application for the same project or purpose. The resubmitted application shall be treated as a new application and preference, priority, or prejudice shall not be given to the application or the issuer as a result of the prior application.

Sec. 13. NEW SECTION. 7C.11 PRIORITY ALLOCATIONS.

The governor's designee shall give priority in the allocation of the state ceiling to a project for which there was an inducement resolution or other comparable preliminary approval by an issuer before October 19, 1983, and which otherwise qualifies for priority under Act section 631(a)(3) of the Deficit Reduction Act of 1984, Pub. L. No. 98-369.

Sec. 14. NEW SECTION. 7C.12 AUTHORITY AND DUTIES OF THE GOVERNOR AND GOVERNOR'S DESIGNEE.

The governor shall designate a person, agency, or authority to administer this chapter. The person, agency, or authority so designated shall serve at the pleasure of the governor and shall be selected primarily for administrative ability and knowledge in the area of public finance.

In addition to the powers and duties specified in sections 7C.1 to 7C.11, the governor's designee:

1. Shall promulgate reasonable rules which are necessary or expedient to carry out the intent and purposes of the private activity bond allocation Act.
2. Shall maintain appropriate records of all applications filed by issuers pursuant to section 7C.6 and all bonds issued pursuant to these applications including, but not limited to, a daily accounting of the amount of the state ceiling available for allocation and the amount of the state ceiling which has been allocated but not used.

Sec. 15. This Act, being deemed of immediate importance, takes effect from and after its publication in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa, and in the Muscatine Journal, a newspaper published in Muscatine, Iowa.

Approved May 30, 1985

I hereby certify that the foregoing Act was published in the Iowa City Press-Citizen, Iowa City, Iowa on June 7, 1985 and in the Muscatine Journal, Muscatine, Iowa on June 11, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 226**  
**QUOTAS ON CITATIONS PROHIBITED**  
*S.F. 497*

**AN ACT** prohibiting political subdivisions or agencies of this state from requiring their employed peace officers to issue a certain number of citations or memorandums.

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

Section 1. NEW SECTION. 321.492A QUOTAS ON CITATIONS PROHIBITED.

A political subdivision or agency of the state shall not order, mandate, require, or in any other manner, directly or indirectly, suggest to a peace officer employed by the political subdivision or agency that the peace officer shall issue a certain number of traffic citations, police citations, memorandums of traffic, or memorandums of faulty equipment on a daily, weekly, monthly, quarterly, or yearly basis.

Approved May 30, 1985

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**CHAPTER 227**  
**SOUTH AFRICA DIVESTITURE**  
*S.F. 110*

**AN ACT** prohibiting the treasurer of state from purchasing a security issued by or depositing money in a financial institution participating in loans to the Republic of South Africa, prohibiting funds of the Iowa public employees' retirement system or institutions controlled by the state board of regents from being invested or deposited in financial institutions or companies which invest in or do business with or in the Republic of South Africa, providing for divestiture of the investments, and providing for civil penalties.

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

Section 1. NEW SECTION. 12A.1 LEGISLATIVE FINDING.

The legislature finds that the present government of the Republic of South Africa, through its legally sanctioned policies of racial discrimination, is violative of both the substance and the intent of Iowa laws protecting individuals from unjust discrimination. Therefore, the legislature intends that state funds and funds administered by the state shall not be invested or deposited in financial institutions or companies making loans to or doing business with or in the Republic of South Africa.

Sec. 2. NEW SECTION. 12A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Financial institution" means a federal-chartered or state-chartered bank, savings and loan, thrift institution, any other institution, or affiliate of the foregoing permitted by state or federal law to receive deposits of money and to pay out that money through loans, draft accounts, or the sale of financial institution securities.

2. "Affiliate" means any entity controlling, controlled by or under common control with a financial institution.

3. "Financial institution security" means a stock or bond issued by a financial institution, or a certificate of deposit, bankers acceptance, or other negotiable security issued by a financial institution.

4. "Republic of South Africa" includes the government, an agency, or an instrumentality of the Republic of South Africa, and any territory under the administration, legal or illegal, of the Republic of South Africa including the "bantustans" or "homelands" to which South African blacks are assigned on the basis of ethnic origin such as the Transkei, Bophuthatswana, Venda, Ciskei, and Kwazulu.

5. "Value" consists of cash, the par value or unpaid balance of all unmatured or unpaid investments requiring the payment of a fixed amount at payment date, and the cost price of all other investments.

6. "Doing business in the Republic of South Africa" means conducting or performing manufacturing, assembly or warehousing or other operations within the Republic of South Africa, except that it shall not mean any company which has adopted the Sullivan principles and has obtained a performance rating in the top two categories of the Sullivan principles rating system prepared by Arthur D. Little, Inc., or is in categories four or five of the rating system. This definition also shall not mean any company that has been a signatory of the Sullivan principles for at least five years and has obtained a performance rating in the top two categories during four of the past five years.

7. "Doing business with the Republic of South Africa" means directly or indirectly supplying strategic products or services for use by the government of South Africa or for use by the military or police in South Africa. This includes, but is not limited to, transactions carried out through intermediary corporations.

8. "Strategic products or services" means articles designated as arms, ammunition and implements of war in 22 C.F.R. § 121, and data processing equipment and computers sold for military or police use or for use in connection with the pass system as practiced in the Republic of South Africa.

Sec. 3. NEW SECTION. 12A.3 PROHIBITED INVESTMENTS AND DEPOSITS.

1. The treasurer of state shall not invest or deposit funds belonging to the state of Iowa in a financial institution which has made a loan, after the effective date of this Act, to the Republic of South Africa, or in the stocks, securities, or other obligations of such a financial institution or of any company doing business in or with the Republic of South Africa.

2. The state board of regents shall not invest or deposit funds belonging to the institutions under the control of the state board of regents in a financial institution which has made a loan, after the effective date of this Act, to the Republic of South Africa, or in the stocks, securities, or other obligations of such a financial institution or of any company doing business in or with the Republic of South Africa.

3. The Iowa department of job service shall not invest or deposit funds from the Iowa public employment retirement fund in a financial institution which has made a loan, after the effective date of this Act, to the Republic of South Africa, or in the stocks, securities or other

obligations of such a financial institution or of any company doing business in or with the Republic of South Africa.

4. This section does not prohibit any of the following:

a. The purchase of securities issued by the United States government or agreements to purchase or repurchase such securities or securities issued by firms not otherwise prohibited from purchase under this chapter.

b. Custodial agreements or accounts used for purchases and sales of securities otherwise acceptable under this chapter.

c. The deposit of funds with a paying agent for bonds of the state board of regents issued prior to January 1, 1985.

5. This section shall not apply to companies doing business in the Republic of South Africa who have adopted the Sullivan principles and have obtained a performance rating in the top two categories of the Sullivan principles rating system prepared by Arthur D. Little, Inc., or are in categories four or five of the rating system.

The treasurer of state shall maintain a list of such companies in accordance with the provisions of section 12A.6.

**Sec. 4. NEW SECTION. 12A.4 DIVESTITURE.**

1. The treasurer of state, the state board of regents, and the department of job service shall make no additional investments of the type prohibited under section 12A.3 subsequent to June 30, 1985. The sale of securities and investments held by the treasurer of state, the state board of regents, and the department of job service on the effective date of this Act that are prohibited under section 12A.3 shall be completed by July 1, 1990, unless prior thereto the general assembly determines that substantial and fundamental progress in establishing human rights policies in the Republic of South Africa has occurred. Subject to any such action of the general assembly not less than one fifth of the value of the investments held on July 1, 1985 shall be sold in the year beginning July 1, 1988.

2. As long as funds remain in investments that would be prohibited under section 12A.3, the treasurer, the board of regents, and the department of job service shall:

a. File with the general assembly, not later than January 20 of each year, a report listing all South Africa-related investments administered by the treasurer, the board of regents, or the department of job service and their value as of the preceding December 31.

b. Exercise its right to vote stock in any election in order to require the company doing business in or with the Republic of South Africa to divest itself of investments in the Republic of South Africa and to cease doing business in or with the Republic of South Africa or to prevent the company from entering into any investment or business in or with the Republic of South Africa.

**Sec. 5. NEW SECTION. 12A.6 ELIGIBILITY.**

1. The treasurer of state shall maintain a list of companies that do business in or with the Republic of South Africa. The list shall be developed with reference to information obtained from the United States department of commerce and Arthur D. Little, Inc. and other authoritative sources. The treasurer shall mail written notification to each company on the divestiture list.

2. A financial institution or other company ineligible to receive investments or deposits may establish eligibility if documentary evidence is submitted to the treasurer of state. The evidence must be sufficient to establish that the financial institution or company has adopted a written policy that prohibits the lending of its assets to or doing business with the Republic of South Africa. As used in this section, "documentary evidence" includes, but is not limited to, an executed affidavit by an appropriate officer of the financial institution or company, in a form prepared by the treasurer of state, attesting to the fact that the financial institution or company prohibits the lending of its assets or doing business with the Republic of South Africa. The treasurer of state shall attempt to verify compliance by checking sources of information not affiliated with the financial institution.



3. The treasurer of state, the board of regents, and the department of job service shall adopt rules under chapter 17A to implement this Act including rules to assess civil penalties against a person who files false or misleading documentary evidence. Penalties shall be deposited in the state general fund. The civil penalties shall not exceed five thousand dollars for each violation. All civil penalties collected shall be deposited in the state general fund.

Sec. 6. Section 12.8, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The treasurer of state shall invest or deposit, subject to chapter 12A and as provided by law, any of the public funds not currently needed for operating expenses and shall do so upon receipt of monthly notice from the state comptroller of ~~such the~~ amount not so needed. In the event of loss on redemption or sale of securities, ~~where~~ invested as prescribed by law, and ~~any such if the~~ transaction is reported to the executive council, neither the treasurer nor comptroller ~~shall be~~ are personally liable but ~~such the~~ loss shall be charged against ~~such the~~ funds as which would have received the profits or interest of the investment and there is hereby appropriated from such the funds an the amount as may be so required.

Sec. 7. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Invest, subject to chapter 12A, such the portion of ~~said the~~ trust funds as which in the judgment of the department ~~are is~~ not needed for current payment of benefits under this chapter in interest-bearing securities issued by the United States, or interest-bearing bonds issued by the state of Iowa, or bonds issued by counties, or school districts, or general obligations or limited levy bonds issued by municipal corporations in this state as authorized by law, or other investments authorized for life insurance companies in this state including common stocks issued or guaranteed by a corporation created or existing under the laws of the United States or any state, district, or territory ~~thereof of the United States~~ subject to the following restrictions:

Sec. 8. Section 262.14, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The board may invest funds belonging to ~~said the~~ institutions, subject to chapter 12A and the following regulations:

Approved May 30, 1985

**CHAPTER 228**  
**INSURANCE COMPANY REPORTS**  
*S.F. 502*

**AN ACT** relating to the financial security and reporting requirements of insurance companies and providing for administrative penalties.

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

Section 1. Section 508.6, Code 1985, is amended to read as follows:

**508.6 DEPOSIT OF SECURITIES — CERTIFICATE.**

~~Such securities~~ Securities in the amount of the capital and surplus required under section 508.5 shall be deposited with the commissioner of insurance or at such places as the commissioner may designate. When the deposit is made and evidence furnished, by affidavit or otherwise, satisfactory to the commissioner, that the capital stock is all fully paid and the company possessed of the surplus required and that the company is the actual and unqualified owner of the securities representing the paid-up capital stock or other funds of the company, and all laws have been complied with, the commissioner shall issue the company the certificate provided for in this chapter.

Sec. 2. Section 508.19, Code 1985, is amended to read as follows:

**508.19 SECURITIES.**

The securities ~~that are on deposit~~ of a defaulting or insolvent company, or a company against which proceedings are pending under sections 508.17 and 508.18, on deposit shall vest in the state for the benefit of the policies ~~on which such deposits were made, and the proceeds of the same shall, by the order of the court upon final hearing, be divided among the holders thereof in the proportion of the last annual valuation of the same, or at any time be applied to the purchase of reinsurance for their benefit~~ all policyholders of the company.

Sec. 3. Section 510.11, Code 1985, is amended to read as follows:

**510.11 BUSINESS YEAR — ANNUAL REPORT — FEES.**

The annual business of ~~such an association operating under this chapter and organized under the laws of this state shall close on the thirty-first day of December of each year, and it shall within sixty days thereafter. On or before March 1 of each year the association shall prepare and file in the office of the commissioner of insurance a detailed statement, verified by its president and secretary, giving its assets, liabilities, receipts from each assessment and all other sources, expenditures, salaries of officers, number of contributing members, death losses paid and amount paid on each, death losses reported but not paid, and furnish such other information as the commissioner, who shall provide blanks for that purpose, may require, so in order that its true financial condition may be shown, and shall pay, upon. The information required in this section shall be provided on forms specified by the national association of insurance commissioners. Upon filing each annual statement, the association shall pay the sum of three dollars, and such other fees as are required by the provisions of sections 511.24 to 511.26.~~ such an association operating under this chapter and organized under the laws of this state shall close on the thirty-first day of December of each year, and it shall within sixty days thereafter. On or before March 1 of each year the association shall prepare and file in the office of the commissioner of insurance a detailed statement, verified by its president and secretary, giving its assets, liabilities, receipts from each assessment and all other sources, expenditures, salaries of officers, number of contributing members, death losses paid and amount paid on each, death losses reported but not paid, and furnish such other information as the commissioner, who shall provide blanks for that purpose, may require, so in order that its true financial condition may be shown, and shall pay, upon. The information required in this section shall be provided on forms specified by the national association of insurance commissioners. Upon filing each annual statement, the association shall pay the sum of three dollars, and such other fees as are required by the provisions of sections 511.24 to 511.26.

Sec. 4. Section 511.8, subsection 16, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The securities comprising the deposit of any a company or association against which proceedings are pending under sections 508.17 and 508.18 shall vest in the state for the benefit of the policies and contracts for which such deposits were made all policyholders of the company or association.

Sec. 5. Section 512.42, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Every such On or before March 1 of each year, an association operating under this chapter and doing business in this state shall, on or before the first day of March of each year, make, and file with the commissioner of insurance, a report for the year ending on the thirty-first day of December immediately preceding December 31. All reports shall be upon blank annual statement forms to be provided by the commissioner, or may be printed in pamphlet form, and stipulated by the national association of insurance commissioners, shall be verified under oath by the authorized officers of such the association, and shall be published, or the substance thereof, in the annual report of the commissioner under the separate title "Fraternal Beneficiary Associations", and shall contain answers to the following questions:

Sec. 6. Section 515.65, Code 1985, is amended to read as follows:

#### 515.65 CERTIFICATE REFUSED.

The commissioner of insurance shall withhold the commissioner's certificate or permission of authority to do business from any a company neglecting or failing to comply with the provisions of this chapter. In addition, a company organized or authorized under this chapter which fails to file the annual statement referred to in section 515.63 in the time required shall pay and forfeit an administrative penalty in an amount of three hundred dollars to be collected in the name of the state for the use of the state general fund. The company's right to transact further new business in this state shall immediately cease until the company has fully complied with this chapter.

Sec. 7. Section 515.68, Code 1985, is amended to read as follows:

#### 515.68 FORMS FOR STATEMENTS.

~~The commissioner shall cause to be prepared and furnished to each company organized under the laws of this state, and to the attorney or agent of each company incorporated in other states and foreign governments, who may apply therefor, printed forms of statements required by this chapter, and may from time to time make such changes in the forms as shall of statements required by this chapter which seem to the commissioner best adapted to elicit from the companies a true exhibit of their condition in respect to the several points hereinbefore enumerated in this chapter.~~

Sec. 8. Section 518A.18, Code 1985, is amended to read as follows:

#### 518A.18 ANNUAL REPORT.

Each An association doing business under the provisions of this chapter shall, annually, on or before March 1 of each year, report to the commissioner of insurance, upon blanks furnished by the commissioner, such the facts as are required of domestic insurance companies organizing under chapter 515, as which are applicable to this chapter. These reports shall be tabulated and published by the commissioner of insurance in the annual report of insurance, one copy of which shall be sent to each association.

Sec. 9. Section 511.3, Code 1985, is repealed.

Approved May 30, 1985

**CHAPTER 229**  
**FUNERAL INSURANCE**  
*S.F. 521*

**AN ACT** relating to insurance trade practices and providing penalties.

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

Section 1. Section 507B.4, subsection 1, Code 1985, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH.** i. Misrepresents any insurance policy to consumers by using the terms "burial insurance", "funeral insurance", "burial plan", or "funeral plan" in its names or titles, unless the policy is made with a funeral provider as beneficiary who specifies and fixes a price under contract with an insurance company. This paragraph does not prevent insurers from stating or advertising that insurance benefits may provide cash for funeral or burial expenses.

Approved May 30, 1985

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**CHAPTER 230**  
**TECHNICAL TAX CORRECTIONS**  
*S.F. 561*

**AN ACT** relating to taxation by updating references to the Internal Revenue Code; providing for a refund of individual income tax for the 1979 tax year resulting from the inclusion of unemployment benefits; making technical corrections to the individual and corporate income tax concerning the credit for increasing research activities in the state; eliminating the requirement that the election campaign fund and fish and game protection fund checkoffs be on the face of the return immediately above the signature line; providing a due date of corporate income tax and franchise tax returns under certain conditions; allowing for the destruction of all useless records and reports and other papers filed by taxpayers after certain periods of time after the filing of these reports with the department of revenue; providing for a refund of individual income tax where the taxpayer died after November 17, 1978 as a result of wounds or injury incurred due to military or terroristic action outside the United States; making technical corrections to the inheritance tax concerning the taxation of gifts made within three years of death; and providing effective dates.

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

Section 1. Section 56.18, subsection 1, Code 1985, is amended to read as follows:

1. Any person whose state income tax liability for any taxable year is one dollar or more

may direct that one dollar of such liability be paid over to the Iowa election campaign fund when submitting the person's state income tax return to the department of revenue. In the case of a joint return of husband and wife having a state income tax liability of two dollars or more, each spouse may direct that one dollar be paid to the fund. The director of revenue shall ~~revise draft~~ the income tax form to provide spaces on the face of the tax return and immediately above the signature lines which the taxpayer may use to designate that contributions made under this section be credited to a specified political party as defined by section 43.2, or to the Iowa election campaign fund as a contribution to be shared by all such political parties in the manner prescribed by section 56.19. The form shall inform the taxpayer of the consequences of the choices provided under this section, but this information may be contained in a footnote or other suitable form if the director of revenue finds it is not feasible to place the information immediately above the signature line.

Sec. 2. Section 107.16, unnumbered paragraph 3, Code 1985, is amended to read as follows:

The director of revenue shall ~~revise draft~~ the income tax form to allow the designation of contributions to the state fish and game protection fund on the face of the tax return and above the signature lines.

Sec. 3. Section 422.3, subsection 5, Code 1985, is amended to read as follows:

5. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, 1984 1985.

Sec. 4. Section 422.7, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 20.** Subtract the unemployment compensation benefits for tax years beginning on January 1, 1979 to the extent those benefits had been included in net income on a return filed before January 1, 1981 and were excluded from income under Act section 1075 of the Tax Reform Act of 1984. Notwithstanding the statute of limitations specified in section 422.73, subsection 2, taxpayers who would be barred from claiming a refund or credit from an overpayment resulting from the change made by Act section 1075 of the Tax Reform Act of 1984 are entitled to receive a refund or credit if they file a claim with the department on or before June 30, 1986.

Sec. 5. Section 422.10, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit shall equal six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, and estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed under section 30 of the Internal Revenue Code of 1954, as amended to and including January 1, 1983. The research activities credit is applicable for taxable years beginning after December 31, 1985 to the same extent that the credit is applicable for federal income tax purposes for taxable years beginning after December 31, 1985.

Sec. 6. Section 422.21, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Returns shall be in ~~such~~ the form as the director may, from time to time, prescribe, and shall be filed with the department on or before the last day of the fourth month after the expiration of the tax year except that co-operative associations as defined in section 6072(d) of the Internal Revenue Code of 1954 shall file their returns on or before the fifteenth day of the ninth month following the close of the taxable year. If, under the Internal Revenue Code of 1954, a corporation is required to file a return covering a tax period of less than twelve months, the state return shall be for the same period and shall be due forty-five days after the due date of the federal tax return, excluding any extension of time to file. In case of sickness, absence, or other disability, or ~~whenever~~ if good cause exists, the director may allow further time for filing returns. The director shall cause to be prepared blank forms for ~~said~~ the returns and shall cause them to be distributed throughout the state and to be furnished upon application, but failure to receive or secure the form shall does not relieve the taxpayer from the ~~obligations~~ obligation of making ~~any~~ a return ~~herein~~ that is required. The department may as far as consistent with the provisions of the Code ~~so~~ draft income tax forms as to conform to the income tax forms of the internal revenue department of the United States government. Each return by a taxpayer upon whom a tax is imposed by section 422.5, subsection 7, shall show the county of the residence of the taxpayer.

Sec. 7. Section 422.33, subsection 5, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities computed under section 30 of the Internal Revenue Code of 1954, as amended to and including January 1, 1983. The research activities credit is applicable for taxable years beginning after December 31, 1985 to the same extent that the credit is applicable for federal income tax purposes for taxable years beginning after December 31, 1985.

Sec. 8. Section 422.61, subsection 2, Code 1985, is amended to read as follows:

2. "Taxable year" means the calendar year or the fiscal year ending during a calendar year, for which the tax is payable. "Fiscal year" includes a tax period of less than twelve months if, under the Internal Revenue Code of 1954, a corporation is required to file a tax return covering a tax period of less than twelve months.

Sec. 9. Section 422.62, Code 1985, is amended to read as follows:

#### 422.62 WHEN DUE.

The franchise tax is due and payable on the first day following the end of the taxable year of each financial institution, and is delinquent after the last day of the fourth month following the due date or forty-five days after the due date of the federal tax return, excluding extensions of time to file, whichever is the later. Every financial institution shall file a return as prescribed by the director on or before the delinquency date. ~~The provisions of this~~ This section shall become is effective for all taxable years ending on or after January 1, 1970. As to fiscal years ending prior to May 9, 1970, the time for filing a return is extended to the last day of the fourth month following ~~such~~ that date.

Sec. 10. Section 422.68, subsection 3, Code 1985, is amended to read as follows:

3. The director shall have the power to may destroy any and all useless records and all returns, reports, and communications of any taxpayer filed with or kept by the department after ~~such~~ those returns, records, reports, or communications shall have been in the custody of the department for a period of not less than ~~five~~ three years, ~~provided, however, or such time as the director prescribes by rule.~~ However, after the accounts of any a person shall have been examined by the director and the amount of tax and penalty due shall have been finally determined, then the director may order the destruction of any records previously filed by ~~such~~ that taxpayer, notwithstanding the fact that ~~such~~ those records shall have been in the custody of the department for a period less than ~~five~~ three years. ~~Such~~ These records and documents shall be destroyed in ~~such~~ the manner as shall be prescribed by the director.

Sec. 11. Section 422.73, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding subsection 2, a claim for credit or refund of the income tax paid is considered timely if the claim is filed with the department on or before June 30, 1986, if the taxpayer's federal income tax was forgiven under section 692(c) of the Internal Revenue Code of 1954 because the taxpayer died after November 17, 1978 as a result of wounds or injury incurred due to military or terroristic action outside the United States. To the extent the federal income tax was forgiven under section 692(c) of the Internal Revenue Code of 1954 for the tax year, the Iowa income tax is also forgiven.

Sec. 12. Section 450.3, subsection 2, Code 1985, is amended to read as follows:

2. By deed, grant, sale, gift or transfer made within three years of the death of the grantor or donor, which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections a b and e of the Internal Revenue Code of 1954 as defined in section 422.3. If both spouses consent, a gift made by one spouse to a person who is not the other spouse is considered, for the purposes of this subsection, as made one half by each spouse under the same terms and conditions provided for in section 2513 of the Internal Revenue Code of 1954 as defined in section 422.3.

Sec. 13. Section 3 of this Act is retroactive to January 1, 1984 for tax years beginning on or after that date.

Sec. 14. Sections 1, 2, 5, 6, 7, 8, and 9 of this Act are retroactive to January 1, 1985 for tax years beginning on or after that date.

Sec. 15. Section 12 of this Act is retroactive to July 1, 1984 for estates of persons dying on or after that date.

Sec. 16. This Act, being deemed of immediate importance, takes effect from and after its publication in the Dallas County News, a newspaper published in Adel, Iowa, and in The Lamoni Chronicle, a newspaper published in Lamoni, Iowa.

Approved May 30, 1985

I hereby certify that the foregoing Act was published in the Dallas County News, Adel, Iowa on June 6, 1985 and in The Lamoni Chronicle, Lamoni, Iowa on June 12, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 231**  
**MOTOR FUEL TAX AND VEHICLE USE**  
*S.F. 565*

**AN ACT** relating to the use and taxation for the use of motor vehicles, water vessels, and mobile homes in the state by increasing the rate of tax on motor fuel and special fuel, by crediting moneys from the road use tax fund to the RISE fund, for use in road or street projects which promote economic development in the state, by crediting moneys from the road use tax fund to the public transit assistance fund, by providing an exemption from the use tax for certain vehicles registered under chapter 326, by exempting from the state use tax the portion of the purchase price of a mobile home which is not attributable to the cost of the materials used in manufacturing the mobile home and exempting from the state use tax the gross receipts from the subsequent sale of a mobile home if the use tax had been paid in a previous sale, by exempting from the sales, services and use tax the sale of special fuel for diesel engines for certain ships, barges and waterborne vessels, by allowing certain truck tractors to be registered as special trucks, and making penalties applicable.

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

Section 1. Section 312.2, Code 1985, is amended by adding the following new subsections:  
**NEW SUBSECTION. 16.** The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the revitalize Iowa's sound economy fund, created under section 315.2, the revenue accruing to the road use tax fund in the amount equal to two thirds of the revenues collected under each of the following:

a. From the excise tax on motor fuel and special fuel imposed under the tax rate of section 324.3:

(1) For the period July 1, 1985, through December 31, 1985, the amount of excise tax collected from two cents per gallon.

(2) From and after January 1, 1986, the amount of excise tax collected from three cents per gallon.

b. From the excise tax on special fuel for diesel engines:

(1) For the period July 1, 1985, through December 31, 1985, the amount of excise tax collected from one cent per gallon.

(2) For the period January 1, 1986, through December 31, 1986, the amount of excise tax collected from two cents per gallon.

(3) From and after January 1, 1987, the amount of excise tax collected from three cents per gallon.

**NEW SUBSECTION. 17.** The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the public transit assistance fund, created under section 601J.6, an amount equal to one fortieth of the revenue credited to the road use tax fund under section 423.24.

Sec. 2. **NEW SECTION. 315.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:



1. "Department" means the state department of transportation.
2. "Fund" or "RISE fund" means the revitalize Iowa's sound economy fund.

**Sec. 3. NEW SECTION. 315.2 REVITALIZE IOWA'S SOUND ECONOMY FUND.**

A revitalize Iowa's sound economy fund is created, which includes:

1. All motor fuel and special fuel excise taxes credited by law to the RISE fund.
2. All other funds by law credited to the RISE fund.

**Sec. 4. NEW SECTION. 315.3 USE OF FUND.**

1. The fund is appropriated for and shall be used in the establishment, construction, improvement and maintenance of roads and streets which promote economic development in the state by having any of the following effects:

a. Improving or maintaining highway access to specific development sites, including existing and future industrial locations.

b. Improving or maintaining highway access between urban centers or between urban centers and the interstate road system as defined in section 306.3.

c. Improving or maintaining highway access to economically depressed areas of the state.

d. Improving or maintaining highway access to points of shipment or processing of products.

e. Improving or maintaining highway access to trucking terminals and places of embarkation or shipment by other transportation modes.

f. Improving or maintaining highway access to scenic, recreational, historic and cultural sites or other locations identified as tourist attractions.

2. The fund is also appropriated and shall be used for the reimbursement or payment to cities or counties of all or part of the interest and principal on general obligation bonds issued by cities or counties for the purpose of financing approved road and street projects meeting the requirements of subsection 1.

**Sec. 5. NEW SECTION. 315.4 ALLOCATION OF FUND.**

Moneys credited to the RISE fund shall be allocated as follows:

1. Fifty percent for the use of the department on primary road projects.
2. Twenty-five percent for the use of counties on secondary road projects.
3. Twenty-five percent for the use of cities on city street projects.

**Sec. 6. NEW SECTION. 315.5 ADMINISTRATION OF FUND.**

Qualifying road and street projects shall be selected by the department for full or partial financing from the fund after consultation with organizations representing interests of counties and cities. Counties and cities may make application for qualifying road and street projects with the department. In ranking applications for funds, the department shall, in addition to effects listed in section 315.3, subsection 1, consider the proportion of political subdivision matching funds to be provided, if any, the proportion of private contributions to be provided, if any, the total number of jobs to be created, the level of need, and the impact of the proposed project on the economy of the area affected. The proportion of funding shall be determined by the department or, in the case of cooperative projects, by agreement between the department and the city councils of participating cities, or boards of supervisors of participating counties, or other participating public agencies or private parties.

**Sec. 7. NEW SECTION. 315.6 FUNDING OF PROJECTS.**

Qualifying projects may be funded as follows:

1. Primary road projects may be financed entirely by the fund, or by combining money from the fund with money from the primary road fund, federal aid primary funds received by the state, or money from cities or counties raised through the sale of general obligation bonds of the cities or counties, other city or county revenues, or money from participating private parties.

2. Secondary road projects may be funded entirely by the fund or by combining money from the fund with money from the county's portion of road use tax funds, federal aid secondary funds, other county revenues, or money raised through the sale of general obligation bonds of the county, or money from participating private parties.

3. City street projects may be funded entirely by the fund, or by combining money from the fund with money from the city's portion of road use tax funds, federal aid urban system funds, other municipal revenues, or money raised through the sale of general obligation bonds of the city, or money from participating private parties.

A county or city may, at its option, apply moneys allocated for use on secondary road or city street projects under section 315.4, subsection 2 or 3, toward qualifying primary road projects.

**Sec. 8. NEW SECTION. 315.7 MONTHLY CERTIFICATION OF FUNDS.**

The account of the fund shall be kept by the state comptroller and the treasurer of state and shall show the amount of the fund including all credits to the fund and disbursements. The state comptroller shall report monthly to the department an account of the fund including all credits and disbursements. Upon certification by the department in accordance with rules adopted by the state comptroller, the state comptroller shall issue warrants for disbursements from the fund.

**Sec. 9. NEW SECTION. 315.8 ACCOUNTS AND RECORDS REQUIRED.**

The department shall keep accounts in relation to the allocation of moneys to the fund including all amounts credited to the fund and all amounts of duly and finally approved vouchers for claims chargeable to the fund. The department shall also keep accounts in relation to agreements with counties and cities for the reimbursement of interest and principal costs for general obligation bonds of counties or cities issued for the purpose of financing road or street projects under this chapter.

**Sec. 10. NEW SECTION. 315.9 PROJECT DEVELOPMENT.**

The department shall be responsible for the development of qualifying projects under this chapter in the same manner as prescribed for primary road system improvements under chapter 313, including surveys, plans, specifications, bids, contracts, supervision and inspection. The department may delegate responsibility for project development to another participating governmental unit.

**Sec. 11. NEW SECTION. 315.10 RULES.**

The department shall adopt rules pursuant to chapter 17A as necessary for the administration of this chapter.

Sec. 12. Section 324.2, subsection 7, Code 1985, is amended to read as follows:

7. "Gasohol" means motor fuel containing at least ten percent alcohol distilled from ~~agricultural products~~ cereal grains.

Sec. 13. Section 324.3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of ~~thirteen~~ fifteen cents per gallon for the period beginning September July 1, 1981 1985 and ending December 31, 1985, and sixteen cents per gallon beginning January 1, 1986, is imposed upon the use of all motor fuel used for any purpose except motor fuel containing at least ten percent alcohol distilled from ~~agricultural products~~ cereal grains grown in the United States for the period beginning July 1, 1978 and ending June 30, ~~1986~~ 1992 and except as otherwise provided in this division.

**PARAGRAPH DIVIDED.** The tax shall be paid in the first instance by the distributor upon the invoiced gallonage of all motor fuel received by the distributor in this state, within the meaning of the word "received" as defined in this division, less the deductions authorized. Thereafter, except as otherwise provided, the per gallon amount of the tax shall be added to the selling price of every gallon of such motor fuel sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax; provided that. However, the tax shall not be imposed or collected under this division with respect to the following:

Sec. 14. Section 324.3, unnumbered paragraph 3, Code 1985, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of ~~six cents per gallon for the period beginning September 1, 1981 and ending April 30, 1982, an excise tax of eight cents per gallon for the period beginning May 1, 1982 and ending June 30, 1983, an excise tax of ten cents per gallon for the period beginning July 1, 1983 and ending June 30, 1984, an excise tax of eleven cents per gallon for the period beginning July 1, 1984 and ending June 30, 1985, an excise tax of twelve fourteen cents per gallon beginning July 1, 1985 and ending December 31, 1985, and fifteen cents per gallon beginning January 1, 1986 and ending June 30, 1986 1992,~~ is imposed upon the use of gasohol used for any purpose except as otherwise provided in this division.

Sec. 15. Section 324.34, unnumbered paragraph 1, Code 1985, is amended to read as follows:

For the privilege of operating motor vehicles in this state, there is ~~levied and imposed~~ an excise tax on the use, (as defined herein) in section 324.33, of special fuel in any a motor vehicle. The rate of tax rate on special (diesel engine) fuel for diesel engines is ~~thirteen and one-half cents per gallon beginning September 1, 1981 and fifteen sixteen and one-half cents per gallon for the period beginning July 1, 1982 1985 and ending December 31, 1985, is seventeen and one-half cents per gallon for the period beginning January 1, 1986 and ending December 31, 1986, and is eighteen and one-half cents per gallon beginning January 1, 1987.~~ On all other special fuel the per gallon rate is the same as the motor fuel tax.

PARAGRAPH DIVIDED. The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and paid over to the department of revenue as provided in this chapter. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or delivery into a motor vehicle special fuel holding tank by a special fuel dealer or distributor, shall ~~attach~~ attaches at the time of the use, (as herein defined) in section 324.33, of the fuel and shall be paid over to the department of revenue by the user as provided in this chapter.

Sec. 16. Section 324.34, unnumbered paragraph 8, Code 1985, is amended to read as follows:

For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be ~~ten and one-half thirteen~~ cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department of revenue by the person operating the compressing equipment under the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture.

Sec. 17. Section 422.45, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 22. The gross receipts from the sales of special fuel for diesel engines consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire on rivers bordering on the state if the fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such a river.

Sec. 18. Section 423.1, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 14.** "Mobile home" means mobile home as defined in section 321.1, subsection 68, paragraph "a".

Sec. 19. Section 423.4, Code 1985, is amended by adding the following new subsections:

**NEW SUBSECTION. 10.** Vehicles registered under chapter 326 and used substantially in interstate commerce, section 423.5 notwithstanding. For purposes of this subsection, "substantially in interstate commerce" means that a minimum of twenty-five percent of the miles operated by the vehicle accrues in states other than Iowa. This subsection applies only to vehicles which are registered for a gross weight of thirteen tons or more.

**NEW SUBSECTION. 11.** Mobile homes the use of which has previously been subject to the tax imposed under this chapter and for which that tax has been paid.

**NEW SUBSECTION. 12.** Mobile homes to the extent of the portion of the purchase price of the mobile home which is not attributable to the cost of the tangible personal property used in the processing of the mobile home. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the mobile home is forty percent.

Approved May 30, 1985

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## CHAPTER 232

### TAX ON RESEARCH-SERVICE FACILITIES

*S.F. 576*

**AN ACT** relating to the granting of a partial real property tax credit for new construction of research-service facilities.

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

Section 1. Section 427B.1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

A city council, or a county board of supervisors as authorized by section 427B.2, may provide by ordinance for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, distribution centers and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to section 427A.1, subsection 1, paragraph "e". New construction means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or

structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the city council of the city or the board of supervisors of the county upon the recommendation of the Iowa development commission. The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to section 427A.1, subsection 1, paragraph "e", unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status. "Research-service facilities" means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate-research services which do not have a primary purpose of providing on-site services to the public. Warehouse means a building or structure used as a public warehouse for the storage of goods pursuant to chapter 554, article 7, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail. Distribution center means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

Approved May 30, 1985

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**CHAPTER 233**  
**ABANDONED ACCOUNTS**  
*H.F. 740*

**AN ACT** relating to the abandonment of funds or a deposit in a banking or financial organization.

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

Section 1. Section 556.2, subsection 1, Code 1985, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. e. Been sent any written correspondence, notice or information by first class mail regarding the deposit by the banking organization on or after the effective date of this Act, if the correspondence, notice or information is not returned to the bank organization for nondelivery and if the bank organization maintains a record of all returned mail.

Sec. 2. Section 556.2, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH.** e. Been sent any written correspondence, notice or information by first class mail regarding the funds or deposits by the financial organization on or after the effective date of this Act, if the correspondence, notice or information is not returned to the financial organization for nondelivery and if the financial organization maintains a record of all returned mail.

Sec. 3. Section 556.2, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 6. A banking organization or financial organization shall send to the owner of each account, to which none of the actions specified in paragraphs "a" through "d" of subsection 1 or "a" through "d" of subsection 2 have occurred during the preceding five calendar years, a notice by certified mail stating in substance the following:

"According to our records, we have had no contact with you regarding (describe account) for more than five years. Under Iowa law, if there is a period of five years without contact, we may be required to transfer this account to the custody of the treasurer of state of Iowa as unclaimed property. You may prevent this by taking some action, such as a deposit or withdrawal, which indicates your interest in this account or by signing this form and returning it to us.

I desire to keep the above account open and active.

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YOUR SIGNATURE"

The notice required under this section shall be mailed within thirty days of the lapse of the five-year period in which there is no activity. The cost of the certified mail of the notice required in this section may be deducted from the account by the banking or financial organization.

Approved May 30, 1985

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## CHAPTER 234

### FINANCIAL REQUIREMENTS OF GRAIN DEALERS

*H.F. 748*

**AN ACT** relating to the financial requirements of grain dealers.

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

Section 1. Section 542.3, subsection 4, paragraph c, Code 1985, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond ~~in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum.~~ under the following conditions:

(1) A grain dealer with current assets equal to at least forty-five percent of current liabilities may provide bond of two thousand dollars for each one thousand dollars or fraction

of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than forty-five percent of current liabilities may provide bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than thirty consecutive days in a twelve-month period.

**PARAGRAPH DIVIDED.** A bond submitted for purposes of this paragraph shall be in addition to any other bond otherwise permitted or required under this chapter.

Sec. 2. Section 542.3, subsection 5, paragraph c, Code 1985, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. under the following conditions:

(1) A grain dealer with current assets equal to at least forty-five percent of current liabilities may provide bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than forty-five percent of current liabilities may provide bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than thirty consecutive days in a twelve-month period.

**PARAGRAPH DIVIDED.** A bond submitted for purposes of this paragraph shall be in addition to any other bond otherwise permitted or required under this chapter.

Sec. 3. Section 542.15, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 7.** A grain dealer shall not purchase grain on credit during any time period in which the grain dealer's current assets are less than forty-five percent of current liabilities.

Approved May 30, 1985

**CHAPTER 235**  
**NEW JOBS TRAINING PROGRAM**  
*H.F. 766*

**AN ACT** to establish an Iowa small business new jobs training program and making an appropriation.

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

**Section 1. NEW SECTION. 280C.1 TITLE.**

This chapter shall be known and may be cited as the "Iowa small business new jobs training Act".

**Sec. 2. NEW SECTION. 280C.2 DEFINITIONS.**

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

1. "New jobs training program" or "program" means the project or projects established by an area school for the creation of jobs by providing education and training of workers for new jobs for a new or expanding small business in the merged area served by the area school.
2. "Project" means a training arrangement which is the subject of an agreement entered into between the area school and an employer to provide program services.
3. "Program services" includes but is not limited to the following:
  - a. New jobs training.
  - b. Adult basic education and job-related instruction.
  - c. Vocational and skill-assessment services and testing.
  - d. Training facilities, equipment, materials, and supplies.
  - e. On-the-job training.
  - f. Administrative expenses for the new jobs training program.
  - g. Subcontracted services with institutions governed by the board of regents, private colleges or universities, or other federal, state, or local agencies.
  - h. Contracted or professional services.
4. "Program costs" means all necessary and incidental costs of providing program services.
5. "Employer" means the small business providing new jobs in the merged area served by the area school and entering into an agreement.
6. "Employee" means the person employed in a new job.
7. "Agreement" is the agreement between an employer and an area school concerning a project.
8. "Area school" means a vocational school or a community college established under chapter 280A.
9. "Board of directors" means the board of directors of an area school.
10. "Incremental property taxes" means the taxes as provided in section 280C.4.
11. "New jobs credit from withholding" means the credit as provided in section 280C.5.
12. "Date of commencement of the project" means the date of the agreement.
13. "Small business" means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and



development, or providing services in interstate commerce, but excludes retail, health, or professional services and which meets the other criteria established by the Iowa development commission. "Small business" does not include a business which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state of Iowa. This subsection does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced. "Small business" does not include a business whose training costs can be economically funded under chapter 280B.

14. "New job" means a job in a new or expanding small business but does not include jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the small business in the state of Iowa.

### Sec. 3. NEW SECTION. 280C.3 AGREEMENT.

An area school may enter into an agreement to establish a project. However, before an area school and a small business enter into an agreement to establish a project, the area school shall consult with the local office of the department of job service to determine if there already exists in the community, a skilled or experienced group of unemployed workers, as a result of a plant closing or reduction in force, sufficiently large to supply the needs of the new or expanding small business. If such a supply of workers exists, the area school shall enter into the agreement only if the small business agrees to give preference in training to those workers over any other workers who do not have greater qualifications. If an agreement is entered into, the area school and the employer shall notify the department of revenue as soon as possible. An agreement may provide, but is not limited to:

1. Program costs, including deferred costs, may be paid from one or a combination of the following sources:

a. Incremental property taxes to be received or derived from an employer's business property where new jobs are created as a result of the project.

b. New jobs credit from withholding to be received or derived from new employment resulting from the project.

c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs in whole or in part.

d. Guarantee of payments to be received under paragraph "a", "b", or "c".

2. Payment of program costs shall not be deferred for a period longer than ten years from the date of commencement of the project.

3. Costs of on-the-job training for employees shall not exceed fifty percent of the annual gross payroll costs for up to one year of the new jobs. For purposes of this subsection, "gross payroll" can be the gross wages, salaries, and benefits for the jobs in training in the project.

4. A provision which fixes the minimum amount of incremental property taxes, new jobs credit from withholding, or tuition and fee payments which shall be paid for program costs.

5. Any payments required to be made by an employer are a lien upon the employer's business property until paid and have equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchaser at tax sale obtains the property subject to the remaining payments.

### Sec. 4. NEW SECTION. 280C.4 INCREMENTAL PROPERTY TAXES.

If an agreement provides that all or part of program costs are to be paid for by incremental property taxes, the board of directors shall provide by resolution that taxes levied on the

employer's taxable business property, where new jobs are created as a result of a project, each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the employer's business property, where new jobs are created as a result of a project, was taxable property in an urban renewal project and the resolution was an ordinance within the meaning of those subsections. To the extent that the taxes received by the board of directors represent repayments of an advance made under section 280C.6 plus interest, the taxes shall be paid to the treasurer of state. However, with respect to any urban renewal project as to which an ordinance is in effect under section 403.19, the collection of incremental property taxes authorized by this chapter are suspended in favor of collection of incremental taxes under section 403.19. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property of the employer's business, where new jobs are created as a result of a project.

Sec. 5. NEW SECTION. 280C.5 NEW JOBS CREDIT FROM WITHHOLDING.

If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, it shall be done as follows:

1. New jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs.

2. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue, to the area school. To the extent this credit represents repayments of an advance made under section 280C.6 plus interest, it shall be paid to the treasurer of state. When the repayments of an advance plus interest have been paid, the employer credits shall cease and any money received after this shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The employer shall certify to the department of revenue that the credit in withholding is in accordance with an agreement and shall provide other information the department may require.

4. An area school shall certify to the department of revenue the amount of new jobs credit from withholding an employer has remitted to the area school and shall provide other information the department may require.

5. An employee participating in a project will receive full credit for the amount withheld as provided in section 422.16.

Sec. 6. NEW SECTION. 280C.6 JOB TRAINING FUND – ADVANCES.

1. There is established for the area schools an area school job training fund under the supervision of the treasurer of state. The area school job training fund consists of two separate accounts containing moneys as follows:

a. An advance account to which is credited moneys appropriated by the state under section 280C.8, plus the interest from repayment of advances made to employers for program costs. Moneys in this account shall be used to provide advances to employers for program costs upon requests of the boards of directors of the area schools.

b. A repayment account to which is credited the repayments of the advances made to employers for program costs. At the end of each calendar quarter, the treasurer of state shall

transfer the moneys in the account to the permanent school fund as repayment of the appropriations made under section 280C.8. However, interest earned on moneys in the repayment account shall be credited to the advance account created in paragraph "a".

2. To provide funds for the present payment of the costs of a new jobs training program by the employer, the area school may provide to the employer an advance of the moneys to be used to pay for the program costs as provided in the agreement. To receive the funds for this advance from the area school job training fund, the area school shall submit an application to the treasurer of state. The treasurer shall provide the funds to the extent available. The amount of the advance shall not exceed seventy-five thousand dollars for any project. The advance shall be repaid with interest from the sources provided in the agreement. The rate of interest to be charged for advances made in a calendar month is equal to one half of the average rate of interest on certificates issued by area schools pursuant to chapter 280B for the previous twelve months. The rate shall be computed by the Iowa development commission.

**Sec. 7. NEW SECTION. 280C.7 DEVELOPMENT COMMISSION.**

The Iowa development commission in consultation with the department of public instruction, department of job service, and the office for planning and programming shall coordinate the new jobs training program. The Iowa development commission shall adopt, amend, and repeal rules under chapter 17A that the area school will use in developing projects with new and expanding small business new jobs training proposals. The commission shall establish by rule criteria for determining what constitutes a small business. The commission is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The Iowa development commission shall prepare an annual report for the governor and general assembly on the activities and the future anticipated needs of this new jobs training program.

**Sec. 8. NEW SECTION. 280C.8 APPROPRIATIONS.**

Notwithstanding sections 8.6, 292.1, 302.1 and 302.13, there is appropriated from the permanent school fund, for the fiscal period beginning July 1, 1985 and ending June 30, 1988 the sum of one million (1,000,000) dollars to provide funds for the purposes of and deposits in the area school job training fund created in section 280C.6. The money appropriated under this section is a loan from the permanent school fund to the area school job training fund. The interest on the loan shall be prepaid for the period of the loan from funds appropriated by this section. The rate of interest shall be determined by the treasurer of state. Notwithstanding section 8.33, moneys remaining of the appropriations made under this section on June 30, 1986 and June 30, 1987 shall not revert to the permanent school fund but remain in the area school job training fund. All moneys in the area school job training fund on June 30, 1988 and each fiscal year thereafter shall revert to the permanent school fund. Moneys to repay the amount of the loan from the permanent school fund shall be paid from funds to be credited to the "Surplus" account of the Iowa plan fund for economic development created in 1985 Iowa Act, House File 225.

**Sec. 9. LEGISLATIVE INTENT.** It is the intent of the general assembly that this chapter 280C complement chapter 280B. One of the main features of chapter 280B is the provision for the issuance of certificates by an area school to pay program costs. These certificates are then repaid from sources provided in the agreement between the area school and the employer. However, the issuance of certificates in relatively small amounts is difficult to sell. This affects the ability of small business to make use of chapter 280B to finance training programs. This chapter substitutes a different funding mechanism for the issuance of certificates with the intent that this chapter will make it easier for those businesses.

Approved May 30, 1985

**CHAPTER 236**  
**FOREST FENCING INCENTIVES**  
*H.F. 266*

**AN ACT** relating to financial incentive payments for the protection of forests and forest soils from damage by grazing.

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

Section 1. **NEW SECTION. 467A.73 FINANCIAL INCENTIVE FOR SOIL CONSERVATION ON FOREST LANDS.**

1. As used in this section, unless the context otherwise requires:
  - a. "Department" means the department of soil conservation.
  - b. "Forest" means stands of native or introduced trees containing at least two hundred trees per acre on privately owned land. However, fruit trees are not forest.
  - c. "Professional forester" means a forestry graduate of an institution of higher learning and having a minimum of two years forest management experience.
  - d. "State forester" means the person employed by the state conservation commission as required by section 107.13.
2. The department may reimburse private landowners for a portion of the cost of fencing materials and installation for permanent fence used to protect forest land from domestic livestock grazing from state cost-sharing funds if the grazing has been determined to cause excessive soil loss. Total department expenditure shall not exceed fifty percent of total landowner expenditures. Expenditures for boundary and road fence construction and for repair and replacement of existing fence are not eligible for reimbursement unless the complete fence is replaced.
3. As a condition for receiving reimbursement, landowners shall sign an agreement to maintain the fence for a minimum of ten years and shall follow written professional forester recommendations approved by the state forester or that person's designee on the tract to be protected by fencing.
4. Recipient landowners found to be in noncompliance with the maintenance agreement shall maintain, repair, or reconstruct damaged fence, or shall pay the department an amount equal to that reimbursed.
5. The department shall adopt, by rule, the form and informational requirements for reimbursement, the minimum forest acreage, and any limitation on the maximum reimbursement an individual landowner may receive. For the purposes of this section, forests shall be considered as agricultural land eligible for public cost-sharing funds.

Approved May 31, 1985

**CHAPTER 237**  
**ANNUAL REVIEW OF LOCAL HUMAN SERVICE PROGRAMS**  
*H.F. 505*

**AN ACT** relating to an annual review of local human service programs by the county board of social welfare.

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

Section 1. Section 234.11, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The county board shall annually review all human services provided or proposed to be provided with state or county funding to children, youth, and families in the county and shall annually review the system in the county for the delivery of the services to determine the degree to which the services are being coordinated. The review shall study cooperative efforts which are designed to prevent duplication of services and to break the cycle of dependency by certain families receiving assistance under human service programs. Human service agencies receiving county funding and state agencies providing human services in the county shall cooperate with the county board in conducting the review. The county board shall report its findings and recommendations by July 1 of each year to the county board of supervisors and to the commission on children, youth, and families established in section 237B.2. The commission shall include in its annual report to the general assembly a summary of its findings from the reports of the county boards.

Approved May 31, 1985

**CHAPTER 238**  
**MORTGAGE TYING ARRANGEMENTS**  
*H.F. 531*

**AN ACT** prohibiting certain practices by a financial institution which makes or offers to make a real estate mortgage loan, requiring certain disclosures, and making penalties applicable.

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

Section 1. Section 535A.1, subsection 3, Code 1985, is amended to read as follows:

3. "Financial institution" means any bank, credit union, insurance company, mortgage banking company or savings and loan association, industrial loan company, or like institution or any other person who makes mortgage loans and which operates or has a place of business in this state. "Financial institution" does not include an individual who makes less than five mortgage loans a year.

Sec. 2. Section 535A.6, Code 1985, is amended to read as follows:

**535A.6 AGGRIEVED PARTY.**

Any person who has been aggrieved as a result of a violation of sections 535A.1 to ~~535A.8~~ **535A.9** and 220.6, subsection 4, may bring an action in the district court of the county in which the violation occurred or in the county where the financial institution involved is located.

Upon a finding that a financial institution has committed a violation of either section 535A.2, ~~or 535A.4, or 535A.9~~ the court may award actual damages, court costs and attorney fees.

Sec. 3. Section 535A.7, Code 1985, is amended to read as follows:

**535A.7 CRIMINAL PENALTY.**

Any person who knowingly engages in a practice which violates the provisions of section 535A.2, ~~or 535A.4 or 535A.9~~ is guilty of a serious misdemeanor.

Sec. 4. **NEW SECTION. 535A.9 TYING ARRANGEMENTS PROHIBITED.**

1. A financial institution which makes or offers to make real estate mortgage loans shall not:

a. Grant or offer to grant a loan on the prior condition, that the borrower is required to contract with any specific person or organization for either of the following:

- (1) Services of a real estate agent or broker.
- (2) Insurance services as an agent, broker, or underwriter.

b. Use confidential credit status information that is used for qualifying a person for the purchase of real property for solicitation purposes either directly or indirectly by an affiliate subsidiary.

c. Attempt or permit a real estate or insurance subsidiary to attempt to create the impression in its advertising or in any communication that the customers of the subsidiary shall have priority access to the funds of the financial institution or are entitled to preferential interest rates or other terms.

2. This section does not apply to the Iowa housing finance authority or a program operated pursuant to chapter 220.

Approved May 31, 1985

**CHAPTER 239****HEALTH COVERAGES AND MUTUAL SERVICE CORPORATIONS***H.F. 570*

**AN ACT** relating to health coverages and mutual service corporations operating under chapter 514 including the taxation thereof and establishing procedures for the mutualization thereof and the authority of insurance companies, making an appropriation for the extension of the medically needy program, and providing for a study.

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

Section 1. **NEW SECTION. 432.2 MUTUAL SERVICE CORPORATIONS.**

Notwithstanding section 432.1, a hospital service corporation, medical service corporation, pharmaceutical service corporation, optometric service corporation and any other service corporation operating under chapter 514 shall pay as taxes to the director of revenue an amount equal to two percent of the gross amount of payments received during the preceding calendar year for subscriber contracts covering residents in this state after deducting the amounts returned to subscribers upon canceled subscriber contracts and rejected applications. Section 432.1, subsections 3 and 4, apply to the tax imposed by this section.

Sec. 2. Section 508.29, Code 1985, is amended to read as follows:

**508.29 AUTHORITY TO WRITE OTHER INSURANCE.**

Any life insurance company organized on the stock or mutual plan and authorized by its charter or articles of incorporation so to do, may in addition to such life insurance, insure, either individually or on the group plan, the health of persons and against personal injuries, disablement or death, resulting from traveling or general accidents by land or water, and insure employers against loss in consequence of accidents or casualties of any kind to employees or other persons, or to property resulting from any act of the employee or any accident or casualty to persons or property, or both, occurring in or connected with the transaction of their business, or from the operation of any machinery connected therewith, but nothing herein contained shall be construed to authorize any life insurance company to insure against loss or injury to person, or property, or both, growing out of explosion or rupture of steam boilers. An insurer may contract with health care service providers and offer different levels of benefits to policyholders based upon the provider contracts.

Sec. 3. Section 514.15, Code 1985, is amended to read as follows:

**514.15 NONEXEMPT FROM TAXATION — RATE OF TAX ON CONTRACTS.**

Every corporation organized under the provisions of this chapter is hereby declared to be a charitable and benevolent institution but its property and funds, including subscribers' contracts, shall not be exempt from taxation. ~~The tax on subscriber contracts shall be at the rate of fifteen cents for each subscriber contract issued in the preceding calendar year and shall be paid to the commissioner of insurance at the time of filing of each corporation's annual statement.~~ For purposes of this section, the term "subscriber contract" shall mean only those benefit contracts issued or delivered in Iowa by corporations subject to this chapter, including certificates issued under such contracts, and which provide coverage to residents of Iowa on a risk basis.

Sec. 4. NEW SECTION. 514.23 MUTUALIZATION PLAN.

A corporation organized and governed by this chapter may become a mutual insurer under a plan which is approved by the commissioner of insurance. The plan shall state whether the insurer will be organized as a for-profit corporation pursuant to chapter 491 or 496A or a non-profit corporation pursuant to chapter 504A. Upon consummation of the plan, the corporation shall thereafter fully comply with the requirements of the law that apply to a mutual insurance company. If the insurer is to be organized under chapter 504A, then at least seventy-five percent of the initial board of directors of the mutual insurer so formed shall be policyholders who are also nonproviders of health care. All directors comprising this initial board of directors shall be selected by an independent committee appointed by the state commissioner of insurance. This independent committee shall consist of seven to eleven persons who are current policyholders, who are nonproviders of health care, and who are not directors of any corporation subject to this chapter. For purposes of this subsection, a "nonprovider of health care" is an individual who is not any of the following:

- a. A "provider" as defined in section 514B.1, subsection 5.
- b. A person who has material financial or fiduciary interest in the delivery of health care services or a related industry.
- c. An employee of an institution which provides health care services.
- d. A spouse or a member of the immediate family of a person described in paragraphs "a" through "c".

Sec. 5. Section 515.1, Code 1985, is amended to read as follows:

515.1 INCORPORATION.

Corporations formed for the purpose of insurance, other than life insurance, shall be governed by the provisions of chapter 491 or chapter 504A, except as modified by the provisions of this chapter.

Sec. 6. Section 515.48, subsection 5, paragraph a, Code 1985, is amended to read as follows:

a. Insure any person, ~~his~~ the person's family or dependents, against bodily injury or death by accident, or against disability on account of sickness, or accident, including the granting of hospital, medical, surgical and sick care benefits, but such benefits shall not include the furnishing or replacing in kind of whole human blood or blood products of any kind; however, this provision shall not prohibit payments of indemnity for human blood or blood products. An insurer may contract with health care services providers and offer different levels of benefits to policyholders based upon the provider contracts.

Sec. 7. There is appropriated to the department of human services for the fiscal year commencing July 1, 1985, and ending June 30, 1986, three million (3,000,000) dollars, or so much thereof as is necessary, to provide for extension and operation of the medically needy program under the medical assistance program to supplemental security income-related groups. This appropriation is in addition to other funds provided to the department, and shall be matched with available federal funds.

Sec. 8. For each fiscal year beginning July 1, 1985, except for the amount appropriated in section 7 of this Act, the entire increase, as determined by the commissioner of insurance and certified to the comptroller of state, or taxes paid under chapter 432 on premiums and payments on individual and group accident and health insurance policies and certificates and individual and group subscriber contracts under chapter 514 shall be set aside in a separate account within the general fund and reserved solely for the purposes of implementing the programs to be studied as provided in section 9 of this Act. The balance of the account shall be considered part of the balance of the general fund of the state except for purposes of determining the annual inflation factor under section 422.4, subsection 17. The funds within the account shall not be expended except as otherwise provided by the general assembly.



Sec. 9. The legislative council shall create a study committee composed of members of the senate committee on commerce and the house committee on small business and commerce representing both political parties, citizen members from the insurance industry having expertise in insurance matters, and such other persons as may be deemed appropriate. The committee shall study the manner in which states presently administer guaranty fund laws which provide for the indemnification of losses of policyholders of insolvent life and health insurance companies as well as the manner in which states administer risk-sharing pools which provide accident and health insurance to persons who are uninsurable. The study committee shall review the funding mechanisms of such laws and develop recommendations which specifically address the manner in which the funds deposited in the general fund pursuant to section 8 of this Act shall be used and administered. Included within the study shall be considerations relating to the administration of the cash flow and funding of the insurance programs, including the collection and deposit of funds, assessments, creation of a permanent state funding mechanism, granting of credits which recognize expenditures to finance guaranty fund and risk-sharing pools, granting of credits which recognize losses attributable to providing comprehensive health coverage to the unemployed or uninsurable public or individuals whose group health coverage is terminated because membership in the group is terminated, and such other considerations as may assist in providing adequate and protective insurance for the public.

The results of the study accompanied by bill drafts designed to carry out recommendations of the committee, shall be submitted to the legislative council, the senate committee on commerce, the house committee on small business and commerce, and to the members of the general assembly prior to convening of the second session of the Seventy-first General Assembly.

Approved May 31, 1985

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**CHAPTER 240**  
**CERTAIN LOCAL TAX LEVIES**  
*H.F. 729*

**AN ACT** relating to certain tax levies of political subdivisions and area schools.

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

Section 1. Section 76.2, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** If funds, including reserves and amounts available for temporary transfer, are found to be insufficient to pay in full any installment of principal or interest, a public issuer of bonds may anticipate the next levy of taxes pursuant to this section in the manner provided in chapter 74, whether the taxes so anticipated are to be collected in the same or a future fiscal year.

Sec. 2. Section 280B.2, subsection 10, Code 1985, is amended to read as follows:

10. "Incremental property taxes" means the taxes as provided in section 403.19 and section 280B.4.

Sec. 3. Section 403.19, subsection 1, Code 1985, is amended to read as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the urban renewal project, as shown on the assessment roll ~~used in connection with the taxation of property by the taxing district, last equalized prior to~~ as of January 1 of the calendar year preceding the effective date of the ordinance, or the assessment roll last equalized prior to the date of initial adoption of the urban renewal plan in the case of projects commenced prior to July 1, 1972, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in an urban renewal project on the effective date of the ordinance or initial adoption of the plan, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on as of January 1 of the calendar year preceding the effective date of the ordinance or initial adoption of the plan shall be used in determining the assessed valuation of the taxable property in the project on the effective date.

Sec. 4. Section 403.19, subsection 5, Code 1985, is amended to read as follows:

5. A city shall certify to the county auditor on or before December 31 the amount of loans, advances, indebtedness or bonds which qualify for payment from the special fund referred to in subsection 2, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year until the amount of the loans, advances, indebtedness or bond is paid to the special fund. In any year, the county auditor shall, upon receipt of a certified request from a city filed prior to ~~the date for certification of city taxes specified in section 384.2~~ January 1, increase the amount to be allocated under subsection 1 in order to reduce the amount to be allocated in the following fiscal year to the special fund, to the extent that the city does not request allocation to the special fund of the full portion of taxes which could be collected.

Sec. 5. Section 403.19, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Tax collections within each taxing district may be allocated to the entire taxing district including the taxes on the valuations determined under subsection 1 and to the special fund created under subsection 2 in the proportion of their taxable valuations determined as provided in this section.

Approved May 31, 1985

**CHAPTER 241**  
**SOLID WASTE AND GROUNDWATER**  
*H.F. 750*

**AN ACT** imposing a tonnage fee on solid waste deposited in sanitary landfills to establish a groundwater fund for administering a groundwater monitoring program, the development of groundwater quality standards, alternative methods of solid waste disposal, and emergency landfill cleanup programs, and subjecting violators to a penalty.

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

Section 1. Section 455B.301, subsection 4, Code 1985, is amended to read as follows:

4. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by section 321.1, subsection 1. Nothing herein shall be construed as prohibiting However, this division does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal. Solid waste does not include hazardous waste as defined in section 455B.411 or source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

Sec. 2. Section 455B.301, Code 1985, is amended by adding the following new subsection: NEW SUBSECTION. "Sanitary landfill" means a landfill associated with a sanitary disposal project to facilitate the final disposition of solid waste.

Sec. 3. NEW SECTION. 455B.309 GROUNDWATER FUND.

1. A groundwater fund is created in the state treasury. Moneys received from the tonnage fee and from other sources designated for purposes related to groundwater monitoring and groundwater quality standards shall be deposited in the state treasury to the credit of the fund. Any unexpended balance in the groundwater fund at the end of each fiscal year shall be retained in the fund.

2. The department may use the fund for any of the following purposes:

- a. The administration of a groundwater monitoring program.
- b. The development of groundwater quality standards.
- c. Research in alternative methods of solid waste disposal including recycling programs.
- d. Abatement and cleanup of threats to the public safety and environment resulting from a sanitary landfill when an owner or operator of the facility is unable to effectuate the abatement or cleanup. However, not more than ten percent of the fund may be used for this purpose in any given year without legislative authorization for that purpose.

Sec. 4. NEW SECTION. 455B.310 TONNAGE FEE IMPOSED.

1. Except as provided in subsection 3, the operator of a sanitary landfill shall pay to the department a tonnage fee for each ton or equivalent volume of solid waste received and disposed of at the sanitary landfill during the preceding reporting period. The department shall determine by rule the volume which is equivalent to a ton of waste.

2. The tonnage fee is twenty-five cents per ton of solid waste.

3. Solid waste disposal facilities with special provisions which limit the site to the disposal of construction and demolition waste and solid waste materials approved by the department for lining or capping or for construction berms, dikes or roads in a sanitary disposal project or sanitary landfill are exempt from the tonnage fees imposed under this section.

4. All tonnage fees received by the department under this section shall be paid to a ground-water fund created under section 455B.309.

5. Fees imposed by this section shall be paid to the department on an annual basis. Fees are due on April 15 for the previous calendar year. The payment shall be accompanied by a return in the form prescribed by the department.

6. A person required to pay fees by this section who fails or refuses to pay the fees imposed by this section shall be assessed a penalty of fifteen percent of the fee due. The penalty shall be paid in addition to the fee due.

Sec. 5. This Act takes effect April 1, 1986.

Approved May 31, 1985

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## CHAPTER 242

### CREDIT UNIONS

*H.F. 196*

**AN ACT** relating to powers, organization, reserve requirements and other requirements of credit unions including a corporate central credit union.

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

Section 1. Section 533.4, subsection 23, Code 1985, is amended by striking the subsection and inserting the following:

23. a. Act as agent of the federal government when requested by the secretary of the United States department of treasury; perform such services as may be required in connection with the collection of taxes and other obligations due the United States and the lending, borrowing and repayment of money by the United States; and be a depository of public money when designated for that purpose.

b. Act as agent of the state when requested by the treasurer of state; perform such services as may be required in connection with the collection of taxes and other obligations due the state and the lending, borrowing and repayment of money by the state; and be a depository of public money when designated for that purpose.

Sec. 2. Section 533.4, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 26.** Pledge its assets to secure the deposit of public funds.

Sec. 3. Section 533.12, Code 1985, is amended to read as follows:

**533.12 CAPITAL.**

1. The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. The credit union shall have a lien on the shares and

deposits of a member for any sum due to the credit union from ~~said the~~ member or for any loan endorsed by the member. A credit union may charge an entrance fee as may be provided by the bylaws.

2. A credit union may establish an equity share having a par value not to exceed one hundred dollars which shall be a part of the capital of the credit union and shall not be withdrawn or transferred except upon termination of membership in the credit union. At the option of the credit union, the equity share may earn a dividend and may be insured.

Sec. 4. Section 533.14, subsection 1, Code 1985, is amended to read as follows:

1. Interest rates on loans made by a credit union, other than loans secured by a mortgage or deed of trust which is a first lien upon real property, shall not exceed ~~one percent a month on unpaid balances, except that with respect to consumer loans, a credit union may charge the~~ finance charge permitted in sections 537.2401 and 537.2402 on consumer loans. Interest rates on business loans shall not exceed the finance charge permitted by section 535.2.

Sec. 5. Section 533.16, subsection 1, Code 1985, is amended to read as follows:

1. A credit union may loan to a member for a provident or productive purpose. Loans shall be ~~are~~ subject to the conditions contained in this section and in the bylaws. A loan may be repaid by the borrower, in whole or in part, any day the office of the credit union is open for business. ~~Every A~~ loan shall be pursuant to an application with supportive credit information. ~~Any credit or financial information which is required shall be updated by the credit union or by the member not less frequently than every eighteen months for refinanced loans or for periodic advances made under an open-end credit plan. The administrator may adopt rules requiring periodic updating of credit or financial information for all loans or for classes of loans designated in the rules.~~

Sec. 6. Section 533.17, subsection 1, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

1. Immediately before the payment of a dividend, the credit union shall determine its gross earnings. A legal reserve for contingencies shall be set aside from the gross earnings in accordance with the following:

a. A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside the following amounts in the following order:

(1) Ten percent of the gross income until the legal reserve equals four percent of the total outstanding loans and risk assets.

(2) Five percent of the gross income until the legal reserve equals six percent of the total outstanding loans and risk assets.

b. A credit union in operation for less than four years or having assets of less than five hundred thousand dollars shall set aside the following amounts in the order set forth:

(1) Ten percent of the gross income until the legal reserve equals seven and one-half percent of the total outstanding loans and risk assets.

(2) Five percent of the gross income until the legal reserve equals ten percent of the total outstanding loans and risk assets.

If the legal reserve falls below the percent of the total outstanding loans and risk assets required for a credit union by this subsection, the credit union shall replenish the legal reserve by regular contributions in the amounts needed to reach the required reserve. However, the administrator may waive the reserve requirement when in the administrator's opinion the waiver is necessary or desirable. The legal reserve shall belong to the credit union and shall be used to meet losses. The reserve shall not be distributed to members as interest or dividends except on liquidation of the credit union or in accordance with a plan approved by the administrator.

Sec. 7. Section 533.30, subsections 1 and 2, Code 1985, are amended by striking the subsections and inserting in lieu thereof the following:

1. With the approval of the administrator, a credit union may merge with another credit union under the existing charter of the other credit union if the merger is pursuant to a plan agreed upon by a majority of the board of directors of each credit union joining in the merger and the merger is approved by the affirmative vote of a majority of the members of the merging credit union present at a meeting of its members called for the purpose of voting on the merger.

The administrator may approve a merger according to the plan agreed upon by the majority of the board of directors of each credit union if the administrator receives a written and verified application filed by the board of directors of each credit union and finds all of the following:

a. Notice of the meeting called to consider the merger was mailed to each member of the merging credit union entitled to vote upon the question.

b. The notice disclosed the purpose of the meeting and properly informed the membership that approval of the merger would be sought pursuant to this subsection.

c. A majority of the votes upon the question were in favor of the merger.

The administrator may waive the membership merger vote if the administrator finds that an emergency exists which justifies the waiver.

2. The administrator may adopt rules establishing merger procedures.

Sec. 8. Section 533.38, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

#### 533.38 CORPORATE CENTRAL CREDIT UNION.

A corporate central credit union may be established. Credit unions organized under this chapter, the Federal Credit Union Act, or any other credit union act and credit union organizations may be members. In addition, regulated financial institutions and cooperative organizations may be members to the extent and manner provided for in the bylaws of the corporate central credit union. The corporate central credit union shall have all the powers, restrictions, and obligations imposed upon, or granted a credit union under this chapter, except that the corporate central credit union may exercise any of the following additional powers subject to the adoption of rules by the administrator pursuant to chapter 17A and with the prior written approval of the administrator:

1. Make loans and extend lines of credit to its members.

2. Impose fees or penalties upon its members and apply them to income.

3. Make available share draft accounts and permit the owners of the accounts to make withdrawals by negotiable or other transferable instruments or other orders for the purpose of making transfers to third parties.

4. Borrow any amount from any source.

5. Invest in or purchase obligations or securities or other designated investments to the same extent authorized for other supervised financial institutions.

6. Invest in or acquire shares, stocks, or other obligations of an organization providing services which are associated with the operations of credit unions. However, the aggregate amount invested pursuant to this subsection shall not exceed fifty percent of the total of all reserves and undivided earnings of the corporate credit union.

7. Buy or sell investment securities and corporate bonds which are evidences of indebtedness. However, the purchase or sale is limited to marketable obligations of a corporation or state or federal agency issued without recourse.

8. Sell all or part of its assets to another central or corporate credit union and assume the liabilities of a selling central or corporate credit union if the action is approved by the majority vote of the board of directors at a meeting called for that purpose.

9. Invest in the shares or deposits of another similarly organized corporate credit union, central credit union, or central liquidity facility.

10. Make other investments approved by the administrator.

11. The corporate central credit union shall not be required to transfer to its legal reserve more than five percent of its net income for the year.

Sec. 9. Section 533.64, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~Every~~ ~~Except as provided in section 533.12, subsection 2,~~ a credit union organized under this chapter, as a condition of maintaining its privilege of organization after December 31, 1980, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. ~~Such~~ The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the administrator of the credit union department. ~~Every credit union not so insured as of January 1, 1979, shall submit an application for share and deposit insurance not later than July 1, 1979.~~

Approved May 31, 1985

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**CHAPTER 243**  
**ALTERNATIVE MINIMUM TAX**  
*S.F. 24*

**AN ACT** to impose a state alternative minimum tax to replace the state minimum tax under the individual income tax and making the Act retroactive.

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

Section 1. Section 422.5, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 15. There is imposed upon every resident and nonresident of this state, including estates and trusts, the greater of the tax determined in subsections 1 through 14 or the state alternative minimum tax equal to nine percent of the state alternative minimum taxable income of the taxpayer as computed under this subsection.

The state alternative minimum taxable income of a taxpayer is equal to the taxpayer's state taxable income, as computed with the deductions in section 422.9, with the following adjustments:

a. Add items of tax preference included in federal alternative minimum taxable income under section 57 of the Internal Revenue Code of 1954. In the case of an estate or trust, the items of tax preference shall be apportioned between the estate or trust and the beneficiaries in accordance with rules prescribed by the director. For purposes of computing the items of

tax preference, the gain or loss from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt or from the sale or exchange of property as a result of actual notice of foreclosure shall not be taken into account in computing net capital gain if all of the following conditions are met:

(1) The forfeiture, transfer, or sale or exchange was done for the purpose of establishing a positive cash flow.

(2) Immediately before the forfeiture, transfer, or sale or exchange, the taxpayer's debt to asset ratio exceeded seventy-five percent as computed under generally accepted accounting practices.

(3) The taxpayer's net worth at the end of the tax year is less than seventy-five thousand dollars.

In determining a taxpayer's net worth at the end of the tax year a taxpayer shall include any asset transferred within one hundred twenty days prior to the end of the tax year without adequate and full consideration in money or money's worth. In determining the taxpayer's debt to asset ratio, the taxpayer shall include any asset transferred, within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange, without adequate and full consideration in money or money's worth. For purposes of this subsection, actual notice of foreclosure includes, but is not limited to, bankruptcy or written notice from a creditor of the creditor's intent to foreclose where there is reasonable belief that the creditor can force a sale of the property.

b. Subtract the applicable exemption amount as follows:

(1) Seventeen thousand five hundred dollars for a married person who files separately or for an estate or trust.

(2) Twenty-six thousand dollars for a single person or an unmarried head of household.

(3) Thirty-five thousand dollars for a married couple which files a joint return.

c. Subtract the amount of the net operating loss computed in section 422.9, subsection 3, for a tax year other than the current year which was carried back or carried forward to the current year under section 422.9, subsection 3, paragraph "a", "b" or "c". However, in the case of a net operating loss computed for a tax year beginning after December 31, 1982 which is carried back or carried forward to the current taxable year, the net operating loss shall be reduced by the amount of the items of tax preference arising in such year which was taken into account in computing the net operating loss in section 422.9, subsection 3.

The state alternative minimum tax of a taxpayer whose items of tax preference include the gain or loss from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt or from the sale or exchange of property as a result of actual notice of foreclosure where the fair market value of the taxpayer's assets exceeds the taxpayer's liabilities immediately before such forfeiture, transfer, or sale or exchange shall not be greater than such excess, including any asset transferred within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange.

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a nonresident, including a nonresident estate or trust, or an individual, estate or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10, 422.11, 422.11A as enacted by 1985 Iowa Acts, Senate File 395, section 80 and 422.12 and this



result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, and tax preference items attributable to Iowa and with a denominator of the sum of total net income computed under section 422.7 and all tax preference items. In computing this fraction, those items excludable under paragraph "a" shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items under section 57 of the Internal Revenue Code of 1954 bear to the combined preference items of both spouses.

Sec. 2. Section 422.5, Code 1985, is amended by striking unnumbered paragraph 10.

Sec. 3. Section 422.8, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The amount of minimum tax paid to another state or foreign country by a resident taxpayer of this state from preference items derived from sources outside of Iowa shall be allowed as a credit against the tax computed under this division except that the credit shall not exceed what the amount of state alternative minimum tax would have been on the same preference items which were taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: The total of preference items earned outside of Iowa and taxed by another state or foreign country shall be divided by the total of preference items of the resident taxpayer of Iowa. In computing this quotient, those items excludable under section 422.5, subsection 15, paragraph "a" shall not be used in computing the preference items. This quotient multiplied times the net state alternative minimum tax as determined in section 422.5, subsection 15, on the total of preference items as if entirely earned in Iowa shall be the maximum tax credit against the Iowa alternative minimum tax. However, the maximum tax credit will not be allowed to the extent that the minimum tax imposed by the other state or foreign country is less than the maximum tax credit computed above.

Sec. 4. In computing the items of tax preference for purposes of the Iowa minimum tax for a tax year beginning in the 1984 calendar year, the gain or loss from the forfeiture of an installment real estate contract, the transfer of property to a creditor in cancellation of a debt or from the sale or exchange of property as a result of actual notice of foreclosure shall not be taken into account in computing net capital gain if, immediately before such forfeiture, transfer, or sale or exchange, the taxpayer's liabilities exceed the fair market value of the taxpayer's assets and the taxpayer's net worth at the end of the tax year is less than one hundred thousand dollars. For purposes of this section, actual notice of foreclosure includes, but is not limited to, bankruptcy or written notice from a creditor of the creditor's intent to foreclose where there is reasonable belief that the creditor can force a sale of the property. In computing the Iowa minimum tax for a tax year beginning in the 1984 calendar year, the Iowa minimum tax of a taxpayer whose items of tax preference include the gain or loss from the forfeiture of an installment real estate contract, the transfer of property to a creditor in cancellation of a debt or from the sale or exchange of property as a result of actual notice of foreclosure where the fair market value of the taxpayer's assets exceeds the taxpayer's liabilities immediately before such forfeiture, transfer, or sale or exchange shall not be greater than such excess. A taxpayer who has filed a state return for such tax year may file an amended state return for such tax year with the state minimum tax calculated on the basis of what the federal minimum tax would have been if such items had not been included in the federal minimum tax calculation of net capital gain or with the state minimum tax calculated on the basis of such limitation on the amount of state minimum tax.

Sec. 5. 1985 Iowa Acts, Senate File 395, section 102 is retroactive to January 1, 1985.

Sec. 6. Except for sections 4 and 5, this Act is retroactive to January 1, 1985 for tax years beginning on or after that date. Section 4 of this Act is retroactive to January 1, 1984 for tax years beginning on or after January 1, 1984 and beginning before January 1, 1985. For taxpayers with capital gains transactions occurring between January 1, 1985 and May 1, 1985, the 1985 Iowa minimum tax may be computed under the law in effect on December 31, 1984.

Approved May 31, 1985

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**CHAPTER 244**  
**MONTHLY EMPLOYMENT STATISTICS**  
*S.F. 435*

**AN ACT** relating to the distribution of monthly employment and unemployment statistics by the department of job service.

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

Section 1. Section 96.11, subsection 3, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** The department shall distribute monthly to the public a press release containing the most recent employment and unemployment statistics adjusted according to the current population survey and containing other statistics which the department determines are of interest to the public.

Approved May 31, 1985

**CHAPTER 245****FILM, TAPE AND DISC TAX EXEMPTION***S.F. 580*

**AN ACT** exempting from the state sales, services, and use tax the gross receipts from the rental of motion picture films, video and audio tapes and discs, records, photos, copy, scripts or other media used for the purpose of transmitting that which can be seen, heard or read under certain conditions.

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

Section 1. Section 422.45, Code 1985, is amended by adding the following new subsection: **NEW SUBSECTION.** The gross receipts from the rental of motion picture films, video and audio tapes, video and audio discs, records, photos, copy, scripts or other media used for the purpose of transmitting that which can be seen, heard or read, if either of the following conditions are met:

a. The lessee imposes a charge for the viewing or the rental of such media and the charge for the viewing or the rental is subject to taxation under this division or chapter 423.

b. The lessee broadcasts the contents of such media for public viewing or listening.

The exemption provided for in this subsection applies to all payments on or after July 1, 1984.

Approved May 31, 1985

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**CHAPTER 246****CORRECTION TO HOUSE FILE 730***S.F. 589*

**AN ACT** related to the licensure of dietitians.

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

Section 1. 1985 Iowa Acts, House File 730, section 7, is amended to read as follows:

SEC. 7. Section 147.80, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION.** 21. License to practice dietetics ~~or nutrition~~ issued upon the basis of an examination given by the board of dietetic examiners, license to practice dietetics ~~or nutrition~~ issued under a reciprocal agreement, or renewal of a ~~licensed license~~ to practice dietetics ~~or nutrition~~.

Approved May 31, 1985

**CHAPTER 247****TAX EXEMPT SERVICES FOR DISABLED AND ADULT DAY CARE***S.F. 564*

**AN ACT** relating to the exemption of certain nonprofit corporations providing services to disabled persons and adult day care services from the sales, services and use tax, prohibiting the collection for certain sales, services and use tax not paid by those corporations.

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

Section 1. Section 422.45, Code 1985, is amended by adding the following new subsection: **NEW SUBSECTION.** The gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to the following nonprofit corporations:

a. Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill licensed by the department of health under chapter 135C.

b. Residential facilities for mentally retarded children licensed by the department of human services pursuant to chapter 237.

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for mentally retarded and other developmentally disabled persons and adult day care services approved for reimbursement by the state department of human services.

d. Community mental health centers accredited by the department of human services pursuant to chapter 225C.

Sec. 2. Sales, services and use taxes which were payable on transactions occurring between July 1, 1980 and July 1, 1985 involving the retail sale or rental of tangible personal property or from services performed, rendered, or furnished to the nonprofit corporations described in section 1 of this Act and which have not been paid by those nonprofit corporations are no longer due and payable after July 1, 1985, and the department of revenue shall not collect these taxes, notwithstanding any other provision of law.

Sec. 3. This Act is effective July 1, 1985.

Approved May 31, 1985

**CHAPTER 248**  
**OPTOMETRISTS USE OF PHARMACEUTICAL AGENTS**

*S.F. 438*

**AN ACT** allowing licensed optometrists to administer and prescribe certain pharmaceutical agents.

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

Section 1. Section 154.1, Code 1985, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Therapeutically certified optometrists may employ the following pharmaceuticals; topical antimicrobial agents, topical and oral antihistamines, topical anti-inflammatory agents, topical analgesic agents and topical anesthetic agents. Superficial foreign bodies may be removed from the human eye and adnexa. These therapeutic efforts are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions and diseases of the human eye and adnexa, except glaucoma, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148 or 150A. A therapeutically certified optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board of optometry examiners to use the agents and procedures listed above. A therapeutically certified optometrist shall be provided with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.

Sec. 2. Section 154.3, Code 1985, is amended by adding the following new subsections:

**NEW SUBSECTION. 7.** A person applying to be licensed as an optometrist after January 1, 1986, shall also apply to be a therapeutically certified optometrist and shall, in addition to satisfactorily completing all requirements for a license to practice optometry, satisfactorily complete a course as defined by rule of the state board of optometry examiners with particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. The rule of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa. The board may also, by rule, provide a procedure by which an applicant who has received didactic education meeting the requirements of rules adopted pursuant to this subsection at an approved school of optometry may apply to the board for a waiver of the didactic education requirements of this subsection.

NEW SUBSECTION. 8. A person licensed in any state as an optometrist prior to January 1, 1986, who applies to be a therapeutically certified optometrist shall first satisfactorily complete a course as defined by rule of the board of optometry examiners with particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. The rule of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa.

NEW SUBSECTION. 9. Persons licensed in any state as an optometrist prior to January 1, 1986, who apply to be a therapeutically certified optometrist shall also be required to qualify as a certified licensed optometrist as defined in subsections 4, 5, and 6.

NEW SUBSECTION. 10. In addition to the examination required by subsection 3, a person applying to be a therapeutically certified optometrist shall also pass an examination prescribed by the board of optometry examiners in the examination, diagnosis, and treatment of diseases of the human eye and adnexa.

Sec. 3. Section 154.10, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A therapeutically certified optometrist employing pharmaceutical agents as authorized by section 154.1 shall be held to the same standard of care in the use of such agents and in diagnosis and treatment as is common to persons licensed under chapter 148 or 150A in this state.

Sec. 4. Section 155.1, subsection 2, Code 1985, is amended to read as follows:

2. Persons who compound or dispense drugs and medicines or fill the prescriptions of licensed physicians and surgeons, dentists, podiatrists, therapeutically certified optometrists or veterinarians.

Sec. 5. Section 155.3, subsection 11, Code 1985, is amended to read as follows:

11. "Medical practitioner" means a physician, dentist, podiatrist, therapeutically certified optometrist, veterinarian or any other person authorized by law to treat sick and injured humans or animals and to use prescription drugs in ~~such~~ the treatment.

Sec. 6. Section 155.22, Code 1985, is amended to read as follows:

155.22 EXCEPTIONS.

Sections 155.20 and 155.21 do not apply to sales by wholesalers of drugs and medicines to licensed physicians, dentists, podiatrists or veterinarians or to sales by wholesalers to certified licensed optometrists and therapeutically certified optometrists of those diagnostic and therapeutic pharmaceutical agents which are authorized for use by certified licensed optometrists and therapeutically certified optometrists pursuant to section 154.1.

Sec. 7. Section 155.26, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~Any~~ A person found in possession of a drug or medicine limited by law to dispensation by a prescription, unless ~~such~~ the drug or medicine was so lawfully dispensed, ~~shall be deemed is~~ guilty of a serious misdemeanor. This section ~~shall~~ does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist, or therapeutically certified optometrist, or to a nurse acting under the direction of a physician or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier or

messenger when transporting such a drug or medicine in the same unbroken package in which the drug or medicine was delivered to that person for transportation.

Sec. 8. Section 155.26, unnumbered paragraph 2, Code 1985, is amended to read as follows:

This section ~~shall~~ does not apply to the possession by a certified licensed optometrist or therapeutically certified optometrist of those diagnostic or therapeutic agents which are authorized for use by certified licensed optometrists or therapeutically certified optometrists pursuant to section 154.1. The dispensing by pharmacists to certified licensed optometrists or therapeutically certified optometrists of those diagnostic or therapeutic agents which are authorized for their use by ~~certified licensed optometrists~~ pursuant to section 154.1 shall be permitted.

Approved May 31, 1985

## CHAPTER 249

### MENTALLY RETARDED, ILL OR DEVELOPMENTALLY DISABLED — RIGHTS

*S.F. 473*

**AN ACT** relating to the rights of a person having mental retardation, a developmental disability or chronic mental illness and providing an effective date and an appropriation.

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

Section 1. Chapter 225C is amended by adding sections 2 through 5\* as a new division.

Sec. 2. **NEW SECTION. 225C.25 SHORT TITLE.**

Sections 225C.25 through 225C.28 shall be known as "the bill of rights of persons with mental retardation, developmental disabilities, or chronic mental illness".

Sec. 3. **NEW SECTION. 225C.26 SCOPE.**

These rights apply to any person with mental retardation, a developmental disability, or chronic mental illness who receives services, which are funded in whole or in part by public funds or services which are permitted under Iowa law.

Sec. 4. **NEW SECTION. 225C.27 PURPOSE.**

Sections 225C.25 through 225C.28 shall be liberally construed and applied to promote their purposes and the stated rights. The division, in coordination with appropriate agencies, shall adopt rules to implement the purpose of sections 225C.25 through 225C.28 which include, but are not limited to the following:

1. Promotion of the human dignity and protection of the constitutional and statutory rights of persons with mental retardation, developmental disabilities, or chronic mental illness in the state.

2. Encouraging the development of the ability and potential of each person with mental retardation, developmental disabilities, or chronic mental illness in the state to the fullest extent possible.

3. Ensuring that the recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa or the Constitution of the United States solely on account of the receipt of the services.

\*6 probably intended

Sec. 5. NEW SECTION. 225C.28 RIGHTS.

The rights of persons described in section 225C.26 include, but are not limited to:

1. Comprehensive evaluation and diagnosis. A person suspected of being mentally retarded, developmentally disabled, or chronically mentally ill or applying for developmental disabilities services, has the right to receive a comprehensive diagnosis and evaluation adapted to the cultural background, primary language, and ethnic origin of the person.

2. Individual treatment, habilitation, and program plan. Persons with mental retardation, a developmental disability, or chronic mental illness who require services have the right to an individual treatment, habilitation, and program plan.

3. Individualized treatment, habilitation, and program services. A person with a known or suspected mental retardation, developmentally disabled, or chronic mental illness condition shall not be denied treatment, habilitation, and program services because of age, sex, ethnic origin, marital status, ability to pay, criminal record, degree of disability or illness, or mental retardation condition.

4. Periodic review of treatment, habilitation, and program. A mentally retarded, developmentally disabled, or chronically mentally ill person receiving services has the right to a periodic, but at least annual, reevaluation and review of the individual treatment, habilitation, and program plan to measure progress, to modify objectives if necessary, and to provide guidance and remediation techniques.

5. Participation in the formulation of the plan. A person with mental retardation, a developmental disability, or chronic mental illness or the person's representative has the right to participate in planning the person's own treatment, habilitation, and program plan and to be informed, in writing, of progress at reasonable time intervals. Each person shall be given the opportunity to make decisions and exercise options regarding the plan, consistent with the person's capabilities.

6. Least restrictive environment and age-appropriate services. A person with mental retardation, a developmental disability, or chronic mental illness has the right to live and receive age-appropriate services in the least restrictive setting consistent with the person's individual treatment and habilitation needs, potential, and abilities.

7. Vocational training and employment options. A person with mental retardation, a developmental disability, or chronic mental illness has the right to vocational training which contributes to the person's independence and employment potential.

8. Wage protection. A person with mental retardation, a developmental disability, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.

9. Insurance protection. Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation, a developmental disability, or chronic mental illness.

10. Due process. A person with mental retardation, a developmental disability, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.

Sec. 6. NEW SECTION. 225C.29 COMPLIANCE.

Except for a violation of section 225C.28, subsection 9, the sole remedy for violation of a rule adopted by the division to enforce or implement this Act shall be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the



division. Neither this Act nor any rules adopted by the division create any right, entitlement, property or liberty right or interest, or private cause of action for damages against a municipality as defined in chapter 613A or for which such municipality would be responsible. Any violation of section 225C.28, subsection 9 shall be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7.

Sec. 7. The commissioner of human services shall create an advisory committee to develop a bill of rights implementation plan and process for individuals pursuant to section 225C.28. The advisory committee shall include no more than twenty members, including representatives of the association for retarded citizens of Iowa, the Iowa association of rehabilitation and residential facilities, the mental health association of Iowa, the mental health centers association of Iowa, and the state developmental disabilities planning council, all of which shall be designated by their respective bodies; state departments and agencies affected by the bill of rights, including but not limited to, the department of public instruction, the department of health, and the university of Iowa; the Iowa state association of counties; and two state senators, one of each political party, and two state representatives, one of each political party, appointed by the legislative council. The advisory committee shall advise the mental health and mental retardation commission and the council on human services regarding proposed rules or standards relating to implementation of the bill of rights.

The implementation plan and process shall include establishing definitions of the services system, the defining of individual assessment, a service inventory, and uniform individual assessments. The mental health and mental retardation commission shall identify specific core services to assist counties to implement services to comply with sections 225C.25 through 225C.29. The commission shall adopt minimum standards for individualized treatment, habilitation, and program services; least restrictive environment and age-appropriate services; and vocational training and employment options, pursuant to section 225C.28. The commissioner may require completion of an individual assessment form by known providers or caretakers for individuals covered under this Act served by the provider or caretaker since July 1, 1984 and individual assessments for clients currently entering into the delivery system. The commissioner may take appropriate action in the event of noncompliance of the requirement. Confidentiality rules pursuant to section 217.30 shall apply to this section.

The director of the division of mental health, mental retardation, and developmental disabilities is responsible for the completion of the implementation plan and process. The director may utilize available services and publicly-funded agencies for the purpose of carrying out the uniform individual assessment process. It is the intent of the general assembly that additional expense will not be incurred when publicly funded agencies are carrying out their normal evaluation and assessment function. The director shall submit a report to the general assembly by April 1, 1986 regarding the results of the implementation plan and process, establishing the level of function and specific appropriate services of the receiving populations and selected subgroups thereof, the estimated costs to implement the services, and required legislation.

As appropriate, the council on human services, the mental health and mental retardation commission, the department of health, and other appropriate agencies shall develop rules by January 1, 1987 to implement the services pursuant to section 225C.28. The rules may permit implementation of the services on a phased-in basis.

The legislative council shall establish a two-year interim study committee beginning during the 1985 interim to review and monitor actions taken by the commissioner of human services, department of human services, mental health and mental retardation commission, council on human services, division of mental health, mental retardation, and developmental disabilities, the advisory committee, and other agencies affected by this Act regarding the bill of rights pursuant to sections 225C.25 through 225C.28, and to review and propose alternatives to the present funding methods for the mandated services.

Sec. 8. There is appropriated from the general fund of the state to the department of human services for each fiscal year for the fiscal period beginning July 1, 1985 and ending June 30, 1987, the sum of one hundred nine thousand (109,000) dollars, or so much thereof as is necessary, for five full-time equivalent positions, to carry out the intent of this Act.

Sec. 9. This Act takes effect July 1, 1985 except section 5 which takes effect July 1, 1987, providing that legislation is enacted by the general assembly before July 1, 1987, which provides a fair and equitable funding formula for the implementation of section 5 of this Act.

Approved May 31, 1985

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**CHAPTER 250**  
**REAL ESTATE FORECLOSURE**  
*S.F. 459*

**AN ACT** relating to real property which is subject to foreclosure.

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

Section 1. Section 654.15, Code 1985, is amended to read as follows:  
654.15 MORATORIUM CONTINUANCE.

1. In all actions for the foreclosure of real estate mortgages, deeds of trust of real property, and contracts for the purchase of real estate, when the owner or owners enter enters an appearance and file files an answer admitting some indebtedness and breach of the terms of the above designated instrument, (which admissions cannot be withdrawn or denied after a continuance is granted hereunder, be withdrawn or denied) such, the owner or owners may apply for a continuance of the foreclosure action when and where if the default or inability of such party or parties the owner to pay or perform is mainly due or brought about by reason of drought, flood, heat, hail, storm, or other climatic conditions or by reason of the infestation of pests which affect the land in controversy, or when the governor of the state of Iowa by reason of a depression shall have by proclamation declared a state of emergency to exist within this state. Said applications The application must be in writing and filed at or before final decree. Upon the filing of such the application the court shall set a day for hearing of on the same application and provide by order for notice, to be given to the plaintiff, of the time fixed for said the hearing. If the court shall on said hearing find finds that the application is made in good faith, and the same is supported by competent evidence showing that default in payment or inability to pay is due to drought, flood, heat, hail, storm, or other climatic conditions or due to infestation of pests or when the governor of the state of Iowa by reason of a depression shall have by proclamation declared a state of emergency to exist within this state, the court may in its discretion continue said the foreclosure proceeding or proceedings as follows:

1 a. If the default or breach of terms of the written instrument ~~or instruments~~ on which the action is based ~~occur~~ occurs on or before the first day of March of any year by reason of any of the causes ~~hereinbefore~~ specified in this subsection, causing the loss and failure of crops on the land involved in the previous year, ~~then~~ the continuance shall end on the first day of March of the succeeding year.

2 b. If the default or breach of terms of ~~said~~ the written instrument ~~occur~~ occurs after the first day of March, but during that crop year and that year's crop fails by reason of any of the causes ~~hereinbefore~~ set out in this subsection, ~~then~~ the continuance shall end on the first day of March of the second succeeding year.

3 c. Only one ~~such~~ continuance shall be granted, except upon a showing of extraordinary circumstances in which event the court may in its discretion grant a second continuance for ~~such~~ a further period as ~~to~~ the court ~~may seem~~ deems just and equitable, not to exceed one year.

4 d. The order shall provide for the appointment of a receiver to take charge of the property and to rent the ~~same and the property~~. ~~The owner or party person in possession shall be given preference in the occupancy thereof and the of the property~~. ~~The receiver, who may be the owner or person in possession, shall collect the rents and income and distribute the proceeds as follows:~~

a. (1) For the payment of the costs of receivership.

b. (2) For the payment of taxes due or becoming due during the period of receivership.

e. (3) For the payment of insurance on the buildings on the premises.

d. (4) ~~The balance remaining balance~~ shall be paid to the owner of the written instrument upon which the foreclosure is based, to be credited ~~thereon~~ on the instrument.

Sec. 2. Section 654.15, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 2.** In all actions for the foreclosure of real estate mortgages, deeds of trust of real property, and contracts for the purchase of real estate, an owner of real estate may apply for a moratorium as provided in this subsection if the governor declares a state of economic emergency. The declaration by the governor of a state of economic emergency shall be valid for no more than one year for the purposes of this subsection. The governor shall state in the declaration whether a moratorium is applicable to real estate used for farming, real estate not used for farming, or all real estate. Only property of the type specified in the declaration which is subject to a mortgage, deed of trust, or contract for purchase entered into before the date of the declaration is eligible for a moratorium. In an action for the foreclosure of a mortgage, deed of trust, or contract for purchase of real property eligible for a moratorium, the owner may apply for a continuation of the foreclosure if the owner has entered an appearance and filed an answer admitting some indebtedness and breach of the terms of the designated instrument. The admissions cannot be withdrawn or denied after a continuance is granted. Upon the filing of an application as provided in this subsection, the court shall set a date for hearing and provide by order for notice to the parties of the time for the hearing. If the court finds that the application is made in good faith and the owner is unable to pay or perform, the court may continue the foreclosure proceeding as follows:

a. If the application is made in regard to real estate used for farming, and if the default or breach of terms of the written instrument occurs on or before the first day of March of the year in which the governor declares a state of economic emergency, then the continuance shall terminate on the first day of March of the succeeding year.

b. Only one continuance shall be granted the applicant or petitioner for each written instrument or contract under each declaration. Except as provided in paragraph "a", the continuance shall not exceed one year.

c. The court shall appoint a receiver to take charge of the property and to rent the property. The owner or person in possession of the property shall be given preference in the occupancy of the property. The receiver, who may be the owner or person in possession, shall collect the rents and income and distribute the proceeds as follows:

- (1) For the payment of the costs of receivership.
- (2) For the payment of taxes due or becoming due during the period of receivership.
- (3) For the payment of insurance on the buildings on the premises.
- (4) The remaining balance shall be paid to the owner of the written instrument upon which the foreclosure was based, to be credited against the written instrument.

d. A continuance granted under this subsection may be terminated if the court finds, after notice and hearing, all of the following:

- (1) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to restructure the debt obligations of the applicant.
- (2) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to utilize state and federal programs designed and implemented to provide debtor relief options. For the purposes of subparagraphs (1) and (2), the determination of reasonableness shall take into account the financial condition of the party seeking foreclosure, and the financial strength and the long-term financial survivorship potential of the applicant.
- (3) The applicant has failed to pay interest due on the written instrument.

Sec. 3. The legislative council shall study the short and long-term effects of the implementation of a phase-in of interest payments. The legislative council shall report the results of the study to the governor and to the general assembly within a reasonable time.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Belle Plaine Union*, a newspaper published in Belle Plaine, Iowa, and in *The Schleswig Leader*, a newspaper published in Schleswig, Iowa.

Approved May 31, 1985

I hereby certify that the foregoing Act was published in *The Schleswig Leader*, Schleswig, Iowa on June 13, 1985 and in *The Belle Plaine Union*, Belle Plaine, Iowa on June 19, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 251**  
**SELF-INSURANCE PLANS**  
*S.F. 503*

**AN ACT** relating to self-insurance plans.

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

Section 1. Section 87.4, Code 1985, is amended by adding the following new unnumbered paragraphs:

**NEW UNNUMBERED PARAGRAPH.** A self-insurance association formed under this section and an association of cities or counties which enters into an agreement under chapter 28E for the purpose of establishing a self-insured group plan for the payment of workers' compensation and benefits are exempt from taxation under section 432.1.

**NEW UNNUMBERED PARAGRAPH.** A plan shall be submitted to the commissioner of insurance for review and approval prior to its implementation. The commissioner shall adopt rules for the review and approval of a self-insured group plan provided under this section. The rules shall include, but are not limited to, the following:

1. Procedures for submitting a plan for approval including the establishment of a fee schedule to cover the costs of conducting the review.
2. Establishment of minimum financial standards to ensure the ability of the plan to adequately cover the reasonably anticipated expenses.

Sec. 2. **NEW SECTION. 509A.14 APPROVAL OF SELF-INSURANCE PLANS.**

The commissioner of insurance shall adopt rules for self-insurance plans for life insurance and accident and health insurance for the state, a political subdivision of the state, a school corporation, or any other public body in the state. The rules adopted shall include, but are not limited to, the following:

1. A requirement that the plan shall include all coverages and provisions that are required by law in insurance policies for the type of risk that the self-insurance plan is intended to cover.
2. A requirement that at least once each twelve months, the governing body of the public body shall obtain from an outside consulting actuary a certification that the plan is able to cover all reasonably anticipated expenses.
3. A requirement that if the resources of the plan are inadequate to fully cover a claim under the plan, then the public body is liable for any portion of the claim that is left unpaid.

Sec. 3. Section 2 of this Act is effective on January 1, 1986. However, the commissioner of insurance shall commence rulemaking procedures in sufficient time to have the final rules adopted by January 1, 1986.

Approved May 31, 1985

**CHAPTER 252****FINANCING***S.F. 577*

**AN ACT** relating to the economy of the State of Iowa, by amending the definition of small business for purposes of the Iowa housing finance authority's program for which bonds may be issued, by changing the name of the Iowa housing finance authority, by requiring that real estate brokers' trust accounts be deposited in interest-bearing accounts and the interest transferred quarterly to the treasurer of state and deposited in the title guaranty fund, by providing that the Iowa housing finance authority initiate a self-sustaining title guarantee program for title of real property, creating a commitment costs fund, creating a title guaranty fund, by modifying the limitations on bank offices upon merger or acquisition, by providing for an alternative nonjudicial voluntary foreclosure procedure including providing for redemption periods of lienholders under the procedure, permitting the charging of fees incurred under the title guaranty program, requiring the disclosure of the availability of the title guaranty program and making penalties applicable, by creating an Iowa economic protective and investment authority, providing for the authority's powers and duties, providing for incentives for lending institutions to participate in the operating assistance program, providing for a five-year write-off of interest bought down under the authority's operating assistance program, permitting life insurance companies and associations to invest in bonds of the African development bank, providing for the valuation of real property held by or used to secure loans held by lending institutions, providing for the disposal of real property held by a state bank, by modifying the investment powers of the state chartered savings and loan associations and savings banks, revising the requirements of amendments to a uniform commercial code financing statement, providing for stipulation of redemption periods, providing for an alternative nonjudicial voluntary foreclosure procedure including providing for redemption periods for lienholders, providing for the execution of foreclosure judgments, providing for the creation of the Iowa export trading company, providing for interim study committees, and providing an effective date.

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

Section 1. Section 117.46, subsection 1, Code 1985, is amended to read as follows:

1. Each real estate broker shall maintain a common trust account in a bank, or a savings and loan association, savings bank, or credit union for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or the broker's salespersons on behalf of the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom the broker acts as salesperson. The account shall be an interest-bearing account. The interest on the account shall be transferred quarterly to the treasurer of state and deposited in the title guaranty fund and used for public purposes and the benefit of the public pursuant to section 220.91 unless there is a written agreement between the buyer and seller to the contrary. The broker shall not benefit from interest received on funds of others in the broker's possession.

Sec. 2. NEW SECTION. 175A.1 LEGISLATIVE FINDINGS – PURPOSE.

The general assembly finds and declares as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare and for the promotion of the economy, which are public purposes.
2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.
3. There exists a serious problem in this state regarding the ability of farmers and small businesses to obtain adequate affordable operating loans and to service the debt on existing operating, machinery, and land loans.
4. Farming and the operation of small regionally owned businesses are principal pursuits of the inhabitants of this state. Many other industries and pursuits are wholly dependent upon farming and small business.
5. The inability of farmers and small businesses to obtain adequate affordable operating loans and to service the debt on existing operating, machinery, and land loans is conducive to economic decline and poverty and impairs the economic value of vast areas of the state, which are characterized by depreciated property values, impaired investments, and reduced capacity to pay taxes.
6. These conditions result in a loss of population and further economic deterioration, accompanied by added costs to communities for creation of new public facilities and services.
7. A major cause of the unavailability of adequate affordable operating loans and the inability to service the debt on existing operating, machinery, and land loans is the unstable economic condition of the state, due in part to unanticipated high interest rates.
8. A stable economic condition is necessary to encourage and facilitate the availability of adequate affordable operating loans and to enable farmers and small businesses to service the debt on existing operating, machinery, and land loans, and it is necessary to create a state economic protective and investment authority to administer programs to stabilize the economic condition.
9. The public purpose of this chapter is to maximize the economic potential of the state and to thereby stabilize the economic condition of the state.

Sec. 3. NEW SECTION. 175A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Authority" means the Iowa economic protective and investment authority established in section 175A.3.
2. "Farmer" means a person engaged in farming.
3. "Farming" means as defined in section 172C.1.
4. "Lending institution" means a bank, trust company, mortgage company, national banking association, savings and loan association, savings bank, or another state financial institution or entity authorized to make farm or small business operating loans or loans to farmers or small businesses to acquire real or personal property.
5. "Operating loan" means a loan made by a lending institution to a borrower in an amount sufficient to enable the borrower to pay the reasonably necessary expenses and cash flow requirements of farming or of operating a small business.
6. "Cash flow requirements" includes but is not limited to the availability of money adequate to provide for obligations which become due during the term of the operating loan for operating expenses, family living expenses, principal and interest installments on loans for real or personal property, and rent.

7. "Small business" means as defined in section 220.1, except as further defined by the authority by rule.

**Sec. 4. NEW SECTION. 175A.3 ESTABLISHMENT OF AUTHORITY.**

1. The Iowa economic protective and investment authority is established and constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which provide assistance for farming and for small businesses, and other programs the authority deems necessary to carry out the purpose identified in section 175A.1. The powers of the authority are vested in and exercised by a board of five members appointed by a committee composed of the majority and minority floor leaders of the senate, the speaker of the house of representatives, and the minority floor leader of the house of representatives. No more than three members appointed pursuant to this subsection shall belong to the same political party. As far as possible the board shall include within the membership persons who represent lending institutions experienced in agricultural or small business lending, agricultural suppliers, farmers, operators of small businesses, average citizens, and other persons specially interested in the availability of funds for farm operating loans.

2. The members of the authority appointed pursuant to subsection 1 shall serve terms of three years, except that, of first appointments, one member shall be appointed for a term of one year and two members shall be appointed for terms of two years. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. A member of the authority appointed pursuant to subsection 1 may be removed from office by the committee for misfeasance, malfeasance, willful neglect of duty, or other just cause after notice and hearing, unless the notice and hearing is expressly waived in writing. A member of the authority appointed pursuant to subsection 1 may also serve as a member of the Iowa family farm development authority.

3. Three members of the authority constitute a quorum and the affirmative vote of a majority of the members of the authority is necessary for substantive action to be taken by the authority. The majority shall not include a member who has a conflict of interest and a statement by a member of a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

4. The members of the authority appointed pursuant to subsection 1 are entitled to receive forty dollars per diem for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

5. The members of the authority appointed pursuant to subsection 1 and the executive director shall give bond as required for public officers in chapter 64.

6. Meetings of the authority shall be held at the call of the chairperson or when two members so request.

7. The members appointed pursuant to subsection 1 shall elect a chairperson and vice chairperson annually, and other officers as they determine, but the executive director, appointed pursuant to section 175A.5, is a nonvoting ex officio member of the board and shall serve as secretary to the authority.

8. The net earnings of the authority, beyond those necessary for retirement of its notes, bonds or other obligations, or to implement the authorized public purposes and programs, shall not inure to the benefit of any person other than the state. Upon termination of the existence of the authority, title to all property owned by the authority, including any such net earnings of the authority, shall vest in the state.



Sec. 5. NEW SECTION. 175A.4 ADVISORY PANEL.

The state comptroller or the comptroller's designee, the treasurer of state or the treasurer's designee, the secretary of agriculture or the secretary's designee, the director of the development commission or the director's designee, the executive director of the family farm development authority or the director's designee, and the superintendent of banking or the superintendent's designee are constituted as an advisory panel to the authority. The panel shall provide advice and assistance to the authority in the performance of the authority's functions, but shall not vote in board decisions.

Sec. 6. NEW SECTION. 175A.5 EXECUTIVE DIRECTOR — STAFF.

1. The governor, subject to confirmation by the senate, shall appoint an executive director of the authority, who shall serve a four-year term at the pleasure of the governor. The term shall begin and end as provided in section 69.19. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation. The executive director shall not, directly or indirectly, exert influence to induce other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

2. The executive director is a nonvoting ex officio member of the board, and shall advise the authority on matters relating to finance, carry out all directives from the authority, and hire and supervise the authority's staff pursuant to its directions and under chapter 19A, except that principal administrative assistants with responsibilities in operating loan programs, accounting, and processing of applications for interest reduction are exempt from that chapter.

3. The executive director, as secretary of the authority, shall be custodian of all books, documents and papers filed with the authority and of its minute book and seal. The executive director may cause copies to be made of all minutes and other records and documents of the authority and give certificates under the seal of the authority to the effect that the copies are true copies and all persons dealing with the authority may rely upon the certificates.

Sec. 7. NEW SECTION. 175A.6 GENERAL POWERS.

The authority has all of the general powers needed to carry out its purposes and duties, and to exercise its specific powers, including but not limited to the power to:

1. Sue and be sued in its own name.
2. Have and alter a corporate seal.
3. Make and alter bylaws for its management consistent with this chapter.
4. Make and execute agreements, contracts and other instruments, with any public or private entity, including but not limited to, any federal governmental agency or instrumentality. The authority may make and execute contracts with a firm of independent certified public accountants to prepare an annual report on behalf of the authority. All political subdivisions, other public agencies and state agencies may enter into contracts and otherwise cooperate with the authority.
5. Procure insurance against any loss in connection with its operations.
6. Accept appropriations, gifts, grants, loans, or other aid from public or private entities. A record of all gifts or grants, stating the type, amount and donor, shall be clearly set out in the authority's annual report along with the record of other receipts.
7. Provide to public and private entities technical assistance and counseling related to the authority's purposes.
8. In cooperation with other local, state or federal governmental agencies or instrumentalities, conduct studies of farm and small business operational expense needs, and gather and compile data useful to facilitate decision making.

9. Facilitate and encourage the maximized use of available federal farm and small business aid.

10. Contract with attorneys, accountants, finance experts, and other advisors or enter into contracts or agreements for these services with local, state or federal governmental agencies.

11. Issue its negotiable bonds, notes, debentures, capital stock, or other obligations as provided in sections 175A.9 to 175A.13 in order to directly or indirectly finance its programs.

12. Fix and collect fees and charges for its services.

13. Subject to agreements with holders of its obligations, invest or deposit moneys of the authority in a manner determined by the authority by rule, notwithstanding chapter 452 or 453.

14. Organize, administer, and participate in real or personal property investment trusts with farmers and small businesses for the purpose of reducing the debt service requirements of farm and small business machinery and land loans, subject to rules provided by the authority.

15. Make, alter and repeal rules consistent with this chapter and subject to chapter 17A. Sec. 8. NEW SECTION. 175A.7 ANNUAL REPORT.

1. The authority shall submit to the governor and to the members of the general assembly who request it, not later than January 15 of each year, a complete and economically designed and reproduced report setting forth:

a. Its operations and accomplishments.

b. Its receipts and expenditures during the fiscal year, in accordance with the classification it establishes for its operating and capital accounts.

c. Its assets and liabilities at the end of its fiscal year and the status of reserve, special and other funds.

d. A statement of its proposed and projected activities.

e. Recommendations to the general assembly, as it deems necessary.

f. An analysis of operating loan needs for farms and small businesses in the state.

g. A schedule of its obligations outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and issued during its fiscal year.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period, in attaining the goals. Where possible, results shall be expressed in terms of number of farm units and small business units assisted. The report shall state the median, mean, range, and total of the dollar amount of the individual grants, the debt-to-asset ratio of borrowers assisted, and the resulting interest rates on farm and small business operating loans. The report shall also state the median, mean, and range of the size of farm units assisted, expressed in acres, and the median, mean, and range of the size of small businesses assisted, expressed in the amount of annual gross income.

Sec. 9. NEW SECTION. 175A.8 OPERATING ASSISTANCE PROGRAM.

1. The authority shall establish and develop an operating assistance program to facilitate the availability of affordable operating capital to as many farmers and small businesses as possible by providing grants to lending institutions as provided in this section.

2. Lending institutions shall make available to borrowers a lender-borrower eligibility application form prepared by the authority for the operating assistance program. Application to the authority for assistance under this section shall be executed jointly by the lending institution and the borrower upon an approved form.

3. The authority shall provide in the operating assistance program that the grant will be provided in conjunction with a borrower's operating loan only if the following criteria are satisfied as evidenced on a lender-borrower eligibility application:

- a. The borrower is a resident of the state.
- b. The farming operation or small business for which the borrower seeks the operating assistance is located in the state.
- c. The operating loan, if a new loan, will be used, and if an existing loan, was used by the borrower for the reasonably necessary expenses and cash flow requirements of farming or of the operation of a small business.
- d. The borrower has made full disclosure of the borrower's finances to the lending institution.
- e. Requirements prescribed by the authority by rule, which may include but are not limited to participation in federal crop insurance programs, where available, a consideration of the borrower's agreement to maintain farm management techniques and standards established by the authority, participation in federal farm programs, where applicable, and the maximized use of available loan guarantees including small business administration programs, where applicable.

4. The authority shall provide in the operating assistance program that the authority may, upon approval by the board of an application, enter into an agreement with the lending institution in which the lending institution shall agree to reduce for one year the interest rate on the borrower's operating loan, whether the loan is a new loan or is an existing and unpaid loan, to a rate at least five percent below the base rate, which is the maximum lawful rate of interest as determined by the superintendent of banking pursuant to section 535.2 for the calendar month in which the application was approved by the authority. However, the authority may lower the base rate if necessary to accommodate regional financial conditions. The authority shall agree to give to each lending institution which has agreed with the authority to the interest reduction a grant in the amount, as determined by the authority, necessary to reimburse the lending institution for the reduction of the interest rate on the borrower's operating loan by two percent for the term of the loan or for one year, whichever is less. The grant shall be paid to the lending institution within sixty days after the date the application is approved.

5. The authority shall require each lending institution to which the authority has approved an application for a grant on an operating loan to submit to the authority evidence satisfactory to the authority of a reduction in the interest rate as required by an agreement pursuant to subsection 4, and in that connection, the board members, employees or agents of the authority may inspect the books and records of a lending institution.

6. Compliance by a lending institution with the terms of an agreement with the authority pursuant to subsection 4 may be enforced by decree of a district court of this state. The authority may require, as a condition of a payment to a national banking association or a federally chartered savings and loan association or savings bank on an operating loan, the consent of the association to the jurisdiction of courts of this state over an enforcement proceeding. The authority may also require, as a condition for approval of an application for a grant to a lending institution on an operating loan, that the lending institution agree to the payment of penalties to the authority for violation by the lending institution of its agreement with the authority pursuant to subsection 4, and the penalties are recoverable at the suit of the authority.

7. If a lending institution refuses a borrower's request to apply for an operating assistance grant under this section, the borrower may provide the authority with a written statement

regarding the lending institution's refusal. A borrower who has provided the authority with a written statement may be provided with an opportunity for a hearing on the refusal before the board or persons designated by the authority. The procedure established in this subsection is not a contested case under chapter 17A.

8. Funds allocated by the authority for the operating assistance program which have not been committed for grants for interest rate reduction on operating loans by the end of the fiscal year, may be used for other economic assistance programs, as provided by the authority by rule, for farming or small businesses. However, applications for grants for interest rate reduction on operating loans made after the close of the fiscal year are given first priority in the use of the uncommitted funds.

Sec. 10. **NEW SECTION. 175A.9 OBLIGATIONS OF THE AUTHORITY.**

1. The authority may issue its negotiable obligations in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its obligations, the establishment of reserves to secure its obligations, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The obligations shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of chapter 554, the uniform commercial code.

2. Obligations issued by the authority are payable solely and only out of the moneys, assets, or revenues of the authority, and as provided in agreements with holders of its obligations pledging any particular moneys, assets or revenues. Taxes or appropriations shall not be pledged for the payment of the obligations. Obligations are not an obligation of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority payable solely and only from the sources provided in this chapter, and the authority shall not pledge the general credit or taxing power of this state or any political subdivision of this state other than the authority, or make its debts payable out of any moneys except those of the authority.

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

4. Obligations shall:

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

b. Be registered, issued in denominations as the authority prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the chairperson or vice chairperson, attested by the manual or facsimile signature of the secretary, have impressed or imprinted on the obligations the seal of the authority or a facsimile of it, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed thirty years from the date of issuance, at places, and with reserved rights of prior redemption, as the authority prescribes, be sold at prices, at public or private sale, and in a manner as the authority prescribes, and the authority may pay all expenses, premiums and commissions which it deems necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions and covenants providing for the payment of the

principal, redemption premiums, if any, interest and other terms, conditions, covenants and protective provisions safeguarding payment, not inconsistent with this chapter, as are found to be necessary by the authority for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the obligations as to:

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

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

(3) The setting aside of reserves or sinking funds and the regulation or disposition of them.

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

(5) Limitations on the issuance of additional obligations and on the refunding of outstanding or other obligations.

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

(7) The creation of special funds into which moneys of the authority may be deposited.

(8) Vesting in a trustee properties, rights, powers and duties in trust as the authority determines, which may include the rights, powers and duties of the trustee appointed for the holders of any issue of obligations pursuant to section 175A.10, in which event the provisions of that section authorizing appointment of a trustee by the holders of obligations shall not apply, or limiting or abrogating the right of the holders of obligations to appoint a trustee under that section, or limiting the rights, duties and powers of the trustee.

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

(10) Any other matters which affect the security and protection of the obligations and the rights of the holders or which the authority deems necessary and advisable in furtherance of its purposes.

c. Include other information and be subject to other terms and conditions as the authority deems necessary and provides by rule.

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

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

7. A copy of each pledge agreement by or to the authority, including without limitation each obligation resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under sections 554.9101 to 554.9507, article 9 of the uniform commercial code, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Neither the members of the authority nor any person executing its obligations are liable personally on the obligations or are subject to any personal liability or accountability by reason of the issuance of the authority's obligations.

9. The authority may create and establish one or more special funds, to be known as "reserve funds", and shall pay into each reserve fund any proceeds of sale of obligations to the extent provided in the resolutions of the authority authorizing their issuance, and any other moneys which may be available to the authority for the purpose of the fund from any other sources. All moneys held in a reserve fund, except as otherwise provided in this chapter, shall be used as required solely for the payment of the principal of obligations secured in whole or in part by the fund or of the sinking fund payments with respect to the obligations, the purchase or redemption of the obligations, the payment of interest on the obligations or the payments of any redemption premium required to be paid when the obligations are redeemed prior to maturity.

Sec. 11. NEW SECTION. 175A.10 REMEDIES OF HOLDERS OF OBLIGATIONS.

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

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

a. Enforce all rights of the holders of the obligations, including the right to require the authority to carry out its agreements with the holders and to perform its duties under this chapter.

- b. Bring suit upon the obligations.
- c. By action require the authority to account as if it were the trustee of an express trust for the holders.
- d. By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.
- e. Declare all the obligations due and payable and if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of obligations then outstanding, annul the declaration and its consequences.

The holders of obligations, to the extent provided in the resolution by which the obligations were issued or in their agreement with the authority, may enforce any of the remedies in paragraphs "a" to "e" or the remedies provided in those agreements for and on their own behalf.

3. The trustee shall also have all powers necessary or appropriate for the exercise of functions specifically set forth or incident to the general representation of the holders of obligations in the enforcement and protection of their rights.

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

5. The district court has jurisdiction of any action by the trustee on behalf of the holders of obligations. The venue of the action shall be in the county in which the principal office of the authority is located.

**Sec. 12. NEW SECTION. 175A.11 OBLIGATIONS AS LEGAL INVESTMENTS.**

Obligations of the authority are securities in which public officers, state departments and agencies, political subdivisions, insurance companies, and other persons carrying on an insurance business, banks, trust companies, savings and loan associations, savings banks, investment companies and other persons carrying on a banking business, administrators, executors, guardians, conservators, trustees and other fiduciaries, and other persons authorized to invest in bonds or other obligations of this state, may properly and legally invest funds including capital in their control or belonging to them. The obligations are also securities which may be deposited with and may be received by public officers, state departments and agencies, and political subdivisions, for any purpose for which the deposit of bonds or other obligations of this state is authorized.

**Sec. 13. NEW SECTION. 175A.12 NOTICE.**

The authority may publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of obligations proposed to be issued, and in general, what funds or revenues will be pledged to pay the obligations and interest on the obligations. An action which questions the legality of obligations or the power of the authority to issue the obligations or the effectiveness of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after sixty days from the date of publication of the notice.

**Sec. 14. NEW SECTION. 175A.13 MONEYS OF THE AUTHORITY.**

1. Moneys of the authority shall be paid to the authority and shall be deposited in a bank or other financial institution designated by the authority. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall be secured in the manner determined by the authority. The auditor of state or the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, investments and other records and papers relating to its financial standing, and the authority shall not be required to pay a fee for the examination.

2. The authority shall submit to the governor, the auditor of state and the state comptroller, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

**Sec. 15. NEW SECTION. 175A.14 LIMITATION OF LIABILITY.**

1. Members of the authority and persons acting in its behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties given in this chapter.

2. The obligations of the authority are not obligations of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limitations, but are obligations of the authority payable solely and only from the authority's funds, and the authority shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the authority or make its debts payable out of any moneys except for those of the authority.

**Sec. 16. NEW SECTION. 175A.15 ASSISTANCE BY STATE OFFICERS, AGENCIES AND DEPARTMENTS.**

State officers and state departments and agencies may render services to the authority within their respective functions as requested by the authority.

**Sec. 17. NEW SECTION. 175A.16 CONFLICTS OF INTEREST.**

1. If a member or employee other than the executive director of the authority has an interest, either direct or indirect, in a contract to which the authority is or is to be a party or in a lending institution which is seeking a payment for a reduction in the interest rate on a borrower's farm operating loan, the interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The member or employee having the interest shall not participate in action by the authority with respect to that contract or lending institution.

2. This section does not limit the right of a member, officer or employee of the authority other than the executive director to have an interest in a bank or other financial institution in which the funds of the authority are deposited.

3. The executive director shall not have an interest in a bank or other financial institution in which the funds of the authority are deposited. The executive director shall not receive, in addition to fixed salary or compensation, money or anything valuable, either directly or indirectly, or through a substantial interest in another corporation or business unit, for negotiating, procuring, recommending or aiding in a payment made by the authority under section 175A.8, subsection 4, nor shall the executive director be pecuniarily interested, either as principal, coprincipal, agent or beneficiary, either directly or indirectly or through any substantial interest in another corporation or business unit, in a payment made by the authority under section 175A.8, subsection 4.

**Sec. 18. NEW SECTION. 175A.17 EXEMPTION FROM COMPETITIVE BID LAWS.**

The authority and contracts made by it in carrying out its public and essential governmental functions are exempt from the laws of the state which provide for competitive bids in connection with the contracts.

**Sec. 19. NEW SECTION. 175A.18 LENDING INSTITUTION OBLIGATIONS.**

1. The authority shall collect from each lending institution participating in the operating assistance program and each participating lending institution shall pay an amount equal to eight percent of the equity capital of each participating stock-owned lending institution and five percent of the surplus of each participating mutually owned lending institution.



2. The amount collected by the authority shall become moneys of the authority and shall be deposited in a special trust fund held in the name of and for the benefit of the authority by a state bank or national banking association with trust powers. The amount collected by the authority shall be invested while on deposit in the special trust fund and shall remain invested and on deposit in the special trust fund until the final maturity of the authority's obligations issued to fund the particular operating assistance program in which the lending institutions are participating. At the time of the final maturity the amount on deposit, including a pro rata share of any investment earnings not already used in accordance with subsection 3, shall be returned to the lending institution making the initial deposit.

3. All investment earnings from the amount on deposit in the special trust fund shall be deposited when earned into a separate account of the special trust fund and pledged to the payment of principal of and interest on the authority's obligations issued to fund the operating assistance program in which the lending institutions are participating pursuant to the resolution under which the obligations were issued. All investment earnings not used to pay principal of and interest on the authority's obligations shall be commingled with other moneys on deposit in the special trust fund and reinvested with such moneys.

4. Neither the authority nor the holders of any of the authority's obligations shall have any claim or right to the amount on deposit in the special trust fund other than to the investment earnings held in the separate account of the special trust fund. The authority shall not use the amount on deposit in the special trust fund, other than the earnings in the separate account, to pay principal of and interest on its obligations.

Sec. 20. NEW SECTION. 175A.19 LENDING INSTITUTIONS INCENTIVES.

The superintendent of banking shall certify that a state bank or national banking association which participates in the operating assistance program is meeting its obligations to meet the credit needs of its community as provided in the federal Community Reinvestment Act of 1977, 12 U.S.C. §§ 2901-2905.

A lending institution participating in the operating assistance program may value on its books the amount collected from it by the authority and held by the authority at the full face amount thereof.

Sec. 21. NEW SECTION. 175A.20 LENDING INSTITUTION WRITE-OFF OF BOUGHT-DOWN INTEREST.

A lending institution participating in the operating assistance program under this chapter may write off the interest bought down under the program over a period not to exceed five years, rather than writing off the entire amount during the year in which the interest is bought down.

Sec. 22. NEW SECTION. 175A.21 AGRICULTURAL LAND VALUATION.

Agricultural land which is valued by a lending institution for the purpose of determining the debt-to-asset ratio of a borrower in conjunction with the borrower's application for an operating loan or a loan for the acquisition of real or personal property shall be valued by determining the per acre average of the valuations for the current year and the four previous years for agricultural land in the county in which the agricultural land is located as published by Iowa state university of science and technology. If an appraisal conducted by an independent real estate appraiser is available for the current year, the five-year county average shall be adjusted by either adding or subtracting from the five-year average the percentage by which the particular farm's current appraised value exceeds or is less than the current year's county average value. To the extent permitted by federal law, national banks may value agricultural land on the same basis as state banks. The value determined pursuant to this section shall be recomputed using the method provided in this section each year a loan subject to this chapter remains in existence and unpaid.

Sec. 23. NEW SECTION. 175A.22 LIBERAL INTERPRETATION.

This chapter, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

Sec. 24. Section 220.1, subsection 28, unnumbered paragraph 1, Code 1985, is amended to read as follows:

"Small business" means a profit or nonprofit business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

Sec. 25. Section 220.1, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 34. "Title Guaranty" means a guaranty against loss or damage caused by defective title to real property.

NEW SUBSECTION. 35. "Division" means the title guaranty division.

Sec. 26. Section 220.2, subsection 1, Code 1985, is amended by striking the subsection and inserting the following:

1. The Iowa finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, and families which include one or more persons who are handicapped or disabled, and to undertake the Iowa homesteading program and the small business loan program. The powers of the authority are vested in and shall be exercised by a board of nine members appointed by the governor subject to confirmation by the senate. No more than five members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent community and housing development industries, housing finance industries, the real estate sales industry, elderly families, minorities, lower income families, very low income families, handicapped and disabled families, average taxpayers, local government, and any other person specially interested in community housing.

A title guaranty division is created within the authority. The powers of the division as relating to the issuance of title guaranties shall be vested in and exercised by a division board of five members appointed by the governor subject to confirmation by the senate. The membership of the board shall include an attorney, an abstractor, a real estate broker, a representative of a mortgage-lender and a representative of the housing development industry. The executive director of the authority shall appoint a director of the title guaranty division who shall be an attorney and shall serve as an ex officio member of the board. The appointment of and compensation for the division director shall be exempt from the provisions of chapter 19A.

a. Members of the board of the division shall be appointed by the governor for staggered terms of six years beginning and ending as provided in section 69.19. A person shall not serve on the division board while serving on the authority board. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. A member of the division board may be removed from office by the governor for misfeasance, malfeasance or willful neglect of duty or for other just cause, after notice and hearing, unless notice and hearing is expressly waived in writing.

b. Three members of the board shall constitute a quorum. An affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the division.

c. Members of the board are entitled to receive forty dollars per diem for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

d. Members of the board and the director shall give bond as required for public officers in chapter 64.

e. Meetings of the board shall be held at the call of the chair of the board or on written request of two members.

f. Members shall elect a chair and vice chair annually and other officers as they determine. The director shall serve as secretary to the board.

g. The net earnings of the division, beyond that necessary for reserves, backing, guaranties issued or to otherwise implement the public purposes and programs authorized, shall not inure to the benefit of any person other than the state and are subject to section 220.2, subsection 8.

Sec. 27. Section 220.3, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 14.** The abstract-attorney's title opinion system promotes land title stability for determining the marketability of land titles and is a public purpose. A public purpose will be served by providing, as an adjunct to the abstract-attorney's title opinion system, a low cost mechanism to provide for additional guaranties of real property titles in Iowa. The title guaranties will facilitate mortgage lenders participation in the secondary market and add to the integrity of the land-title transfer system in the state.

Sec. 28. Section 220.5, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 16.** Through the title guaranty division, make and issue title guaranties on Iowa real property in a form acceptable to the secondary market, to fix and collect the charges for the guaranties and to procure reinsurance against any loss in connection with the guaranties.

Sec. 29. **NEW SECTION. 220.40 COMMITMENT COSTS FUND.**

A commitment costs fund is created within the treasurer of state's office. The moneys shall be used by the authority to cover initial commitment costs of authority bond issues and loans in order to facilitate and ensure equal access across the state to funds for programs for first time home buyers. Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be retained as part of the fund and not accrue to the general fund.

Sec. 30. **NEW SECTION. 220.91 TITLE GUARANTY PROGRAM.**

1. The authority through the title guaranty division shall initiate and operate a program in which the division shall offer guaranties of real property titles in this state. The terms, conditions and form of the guaranty contract shall be forms approved by the division board. The division shall fix a charge for the guaranty in an amount sufficient to permit the program to operate on a self-sustaining basis, including payment of administrative costs and the maintenance of an adequate reserve against claims under the title guaranty program. A title guaranty fund is created in the office of the treasurer of state. Funds collected under this program shall be placed in the title guaranty fund and are available to pay all claims, necessary reserves and all administrative costs of the title guaranty program. Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be retained as a part of the fund and shall not accrue to the general fund. If the authority board in consultation with the division board determines that there are surplus funds in the title guaranty fund after providing for adequate reserves and operating expenses of the division, the surplus funds shall be transferred to the commitment costs fund created pursuant to section 220.40.

2. A title guaranty issued under this program is an obligation of the division only and claims are payable solely and only out of the moneys, assets and revenues of the title guaranty fund and are not an indebtedness or liability of the state. The state is not liable on the guaranties.

3. With the approval of the authority board the division and its board shall consult with the insurance department in developing a guaranty contract acceptable to the secondary market and developing any other feature of the program with which the department may have special expertise. The department shall establish the amount for a loss reserve fund. Except as provided in this subsection, the title guaranty program is not subject to the jurisdiction of or regulation by the insurance department or the commissioner of insurance.

4. Each participating mortgage lender, attorney and abstractor shall pay an annual participation fee to be eligible to participate in the title guaranty program. The fee shall be set by the division, subject to the approval of the authority.

5. The participation of abstractors, attorneys and lenders shall be in accordance with rules established by the division and adopted by the authority pursuant to chapter 17A. Each participant shall at all times maintain liability coverage in amounts approved by the division. Upon payment of a claim by the division, the division shall be subrogated to the rights of the claimant against all persons relating to the claim.

6. Prior to the issuance of a title guaranty, the division shall require evidence that an abstract of title to the property in question has been brought up-to-date and certified by a participating abstractor in a form approved by division rules and a title opinion issued by a participating attorney in the form approved in the rules stating the attorney's opinion as to the title. The division shall require evidence of the abstract being brought up-to-date and the abstractor shall retain evidence of the abstract as determined by the board.

7. The attorney rendering a title opinion shall be authorized to issue a title guaranty certificate subject to the rules of the authority. A person or mortgage lender participating in the title guaranty program shall not charge or receive any portion of the charge for the guaranty as a result of their participation in the title guaranty program.

8. A participating mortgage lender shall notify the division when the mortgage covered by a title guaranty has been satisfied of record.

9. The authority shall adopt rules pursuant to chapter 17A that are necessary for the implementation of the title guaranty program as established by the division and that have been approved by the authority.

Sec. 31. Section 511.8, subsection 4, Code 1985, is amended to read as follows:

4. INTERNATIONAL BANK BONDS. Bonds or other evidence of indebtedness issued, assumed or guaranteed by the International Bank for reconstruction and development, in an amount not to exceed two percent of its total assets as shown by the last annual report, or by the Inter-American Development Bank in an amount not to exceed two percent of its total assets as shown by the last annual report ~~or~~ by the Asian Development Bank in an amount not to exceed two percent of its total assets as shown by the last annual report or by the African Development Bank in an amount not to exceed two percent of its total assets as shown by the last annual report. However, the combined investment in bonds or evidences of indebtedness permitted by this subsection shall not exceed four percent of its total assets as shown by the last annual report.

Sec. 32. Section 524.103, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 27. "Bankers' bank" means a bank which is organized under the laws of any state or under federal law, and whose shares are owned exclusively by other banks or by a bank holding company whose shares are owned exclusively by other banks, except for directors' qualifying shares when required by law, and which engages exclusively in providing services for depository institutions and officers, directors and employees of those depository institutions.

Sec. 33. NEW SECTION. 524.109 BANKERS' BANK AUTHORIZED.

A state bank may be organized under this chapter as a bankers' bank. The bankers' bank is subject to all rights, privileges, duties, restrictions, penalties, liabilities, conditions and limitations applicable to state banks generally except as limited in the definition of bankers' bank contained in the section 524.103, subsection 27. However, a bankers' bank shall have the same powers as those granted by federal law and regulation to a national bank organized as a bankers' bank under 12 U.S.C. § 27.

Sec. 34. Section 524.910, subsection 2, Code 1985, is amended to read as follows:

2. Real property purchased by a state bank at sales upon foreclosure of mortgages or deeds of trust owned by it, or acquired upon judgments or decrees obtained or rendered for debts due it, or such real property as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business, or such real property as it may obtain by obtained by it through redemption as a junior mortgagee or judgment creditor, shall be sold or otherwise disposed of by the state bank within ~~one year~~ five years after title is vested in the state bank, unless the time is extended by the superintendent. Agricultural land held by a state bank pursuant to this subsection shall be valued on the books of the bank at a value determined by obtaining the per acre average of the valuations for the current year and the four previous years for agricultural land in the county in which the agricultural land is located as published by Iowa state university of science and technology. If an appraisal conducted by an independent real estate appraiser is available for the current year, the five-year county average shall be adjusted by either adding or subtracting from the five-year average the percentage by which the particular farm's current appraised value exceeds or is less than the current year's county average value. To the extent permitted by federal law, national banks may value agricultural land on the same basis as state banks. Before the state bank sells or otherwise disposes of agricultural land held pursuant to this subsection, the state bank shall first offer the prior owner the opportunity to repurchase the agricultural land on the terms the state bank proposes to sell or dispose of the agricultural land.

Sec. 35. Section 524.901, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A state bank may invest for its own account in the shares of a bankers' bank or in the shares of a bank holding company which owns a bankers' bank. A state bank shall not invest in more than one bankers' bank or in more than one bank holding company which owns a bankers' bank. A state bank shall not invest an amount greater than ten percent of its capital and surplus in the shares of a bankers' bank or in the shares of a bank holding company which owns a bankers' bank. A state bank shall not invest any amount if after the investment the state bank would own or control more than five percent of any class of the voting shares of a bankers' bank or a bank holding company which owns a bankers' bank.

Sec. 36. Section 524.1202, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 1, if the assets of a state or national bank in existence on January 1, 1985 are transferred to a different state or national bank in the state which is located in the same county or a county contiguous to or cornering upon the county in which the principal place of business of the acquired bank is located, the resulting or acquiring bank may convert to and operate as its bank office any one or more of the business locations occupied as the principal place of business or as a bank office of the bank whose assets are so acquired. The limitations on bank office locations contained in unnumbered paragraph 1 of this section, and the limitation on the number of bank offices within the municipality or urban complex of the resulting or acquiring bank contained in subsection 2 shall be applicable to any bank office otherwise authorized by this subsection. A bank office established under the authority of this subsection is subject to the approval of the superintendent, shall be operated in accordance with this chapter relating to the operation of bank offices, and may be augmented by an integral facility when approved under subsection 2, paragraph "d".

Sec. 37. Section 534.213, subsection 1, Code 1985, is amended by adding the following new lettered paragraphs:

**NEW LETTERED PARAGRAPH. l.** In addition to other investments authorized in this section, an association may invest and may continue previous investments in capital stock, obligations, or other securities of finance subsidiaries and may exercise powers with respect to finance subsidiaries to the same extent as a federal association is permitted under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, and regulations adopted thereunder by the federal home loan bank board up to and including January 1, 1985. Investments authorized by this subsection shall not be counted in applying the limitations on investments in service corporations in paragraph "j".

**NEW LETTERED PARAGRAPH. m.** In addition to other investments authorized in this section, an association may invest and may continue previous investments in capital stock, obligations, or other securities of corporations which are wholly owned by the association and which exercise only those powers which may be exercised by an association under this chapter. Investments authorized by this subsection shall not be counted in applying the limitations on investments in service corporations in paragraph "j".

Sec. 38. Section 534.213, subsection 3, Code 1985, is amended to read as follows:

3. Investment in EFT organizations. Subject to the prior approval of the supervisor, in shares in a corporation engaged solely in providing and operating facilities through which an association and its members may engage, by means of either the direct transmission of electronic impulses to and from the association or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the association, in transactions in which such the association is otherwise permitted to engage pursuant to applicable law.

Sec. 39. Section 535.8, subsection 2, paragraph b, Code 1985, is amended by adding the following new subparagraph:

(10) The cost of a title guaranty issued by the Iowa finance authority pursuant to chapter 220.

Sec. 40. **NEW SECTION. 535A.9 TITLE GUARANTY PROGRAM DISCLOSED.**

A financial institution shall advise prospective borrowers of the availability of the title guaranty program provided for in chapter 220 and also provide the prospective borrower with information about the title guaranty program as provided to the financial institution by the title guaranty board.

Sec. 41. Section 554.9402, subsection 4, Code 1985, is amended to read as follows:

4. A Except as provided in this subsection, a financing statement may be amended by filing a writing signed by both the debtor and the secured party. However, an amendment is sufficient when it is signed only by the secured party if it is filed to show a change of the name of the secured party. An amendment showing only a change of the name of the secured party shall be filed without fee. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

Sec. 42. **NEW SECTION. 615.4 CHAPTER INAPPLICABLE IN CERTAIN SITUATION.**

This chapter shall not be applied to actions which are subject to an agreement entered into pursuant to either section 628.26A or section 654.16.

Sec. 43. NEW SECTION. 628.26A AGREEMENT TO EXTEND PERIOD OF REDEMPTION.

Notwithstanding section 628.3, the debtor and the mortgagee of agricultural land after the filing of the foreclosure petition, may enter into a written agreement to extend the debtor's period of redemption up to five years, and may set forth other terms and conditions of the extended redemption as agreed upon by the parties, including allowing the debtor to lease the property. However, the rights of the debtor and other parties who have a secured interest in the agricultural land shall not be reduced beyond those set forth in this chapter. The agreement entered into by the debtor and the mortgagee pursuant to this section must be approved by the court and shall be filed in the foreclosure proceedings. An agreement pursuant to this section does not constitute an equitable mortgage.

Sec. 44. NEW SECTION. 628.29 REDEMPTION BY CREDITOR PURSUANT TO ALTERNATIVE FORECLOSURE.

A lienholder of record may redeem real property which has been foreclosed by a mortgagee pursuant to the alternative voluntary foreclosure procedure provided in section 654.16. The junior lienholders' redemption period shall be thirty days commencing the day the notice required by section 654.16, subsection 1, paragraph "e" is sent. The redemption shall be made by payment to the mortgagee of the amount of the debt secured by the mortgage including any protective advances made pursuant to chapter 629. Upon payment, the mortgagee shall convey the property by special warranty deed to the redeeming junior lienholder.

Sec. 45. Section 654.1, Code 1985, is amended to read as follows:

654.1 EQUITABLE PROCEEDINGS.

No Except as provided in section 654.16, a deed of trust or mortgage of real estate shall not be foreclosed in any other manner than by action in court by equitable proceedings.

Sec. 46. NEW SECTION. 654.16 ALTERNATIVE NONJUDICIAL VOLUNTARY FORECLOSURE PROCEDURE.

1. Upon the mutual written agreement of the mortgagor and mortgagee, a real estate mortgage may be foreclosed pursuant to this section by doing all of the following:

a. The mortgagor shall convey to the mortgagee all interest in the real property subject to the mortgage.

b. The mortgagee shall accept the mortgagor's conveyance and waive any rights to a deficiency or other claim against the mortgagor arising from the mortgage.

c. The mortgagee shall have immediate access to the real property for the purposes of maintaining and protecting the property.

d. The mortgagor and mortgagee shall file a jointly executed document with the county recorder in the county where the real property is located stating that the mortgagor and mortgagee have elected to follow the alternative voluntary foreclosure procedures pursuant to this section.

e. The mortgagee shall send by certified mail a notice of the election to all junior lienholders as of the date of the conveyance under paragraph "a", stating that the junior lienholders have thirty days from the date of mailing to exercise any rights of redemption. The notice may also be given in the manner prescribed in section 656.3 in which case the junior lienholders have thirty days from the completion of publication to exercise the rights of redemption.

f. At the time the mortgagor signs the written agreement pursuant to subsection 1, the mortgagee shall furnish the mortgagor a completed form in duplicate, captioned "Disclosure and Notice of Cancellation". The form shall be attached to the written agreement, shall be in ten point boldface type and shall be in the following form:

**"DISCLOSURE AND NOTICE OF CANCELLATION**

.....  
(enter date of transaction)

Under a forced foreclosure Iowa law requires that you have the right to reclaim your property within one year of the date of the foreclosure and that you may continue to occupy your property during that time. If you agree to a voluntary foreclosure under this procedure you will be giving up your right to reclaim or occupy your property.

Under a forced foreclosure, if your mortgage lender does not receive enough money to cover what you owe when the property is sold, you will still be required to pay the difference. If your mortgage lender receives more money than you owe, the difference must be paid to you. If you agree to a voluntary foreclosure under this procedure you will not have to pay the amount of your debt not covered by the sale of your property but you also will not be paid any extra money, if any, over the amount you owe.

NOTE: There may be other advantages and disadvantages, including an effect on your income tax liability, to you depending on whether you agree or do not agree to a voluntary foreclosure. If you have any questions or doubts, you are advised to discuss them with your mortgage lender or an attorney.

You may cancel this transaction, without penalty or obligation, within five business days from the above date.

This transaction is entirely voluntary. You cannot be required to sign the attached foreclosure agreement.

This voluntary foreclosure agreement will become final unless you sign and deliver or mail this notice of cancellation to

\_\_\_\_\_ before midnight of \_\_\_\_\_  
(name of mortgagee) (enter proper date)

I HEREBY CANCEL THIS TRANSACTION.

\_\_\_\_\_  
DATE SIGNATURE"

2. A junior lienholder may redeem the real property pursuant to section 628.29. If a junior lienholder fails to redeem its lien as provided in subsection 1, its lien shall be removed from the property.

3. Until the completion of foreclosure pursuant to this section, the mortgagee shall hold the real property subject to liens of record at the time of the conveyance by the mortgagor. However, the lien of the mortgagee shall remain prior to liens which were junior to the mortgage at the time of conveyance by the mortgagor to the mortgagee and may be foreclosed as provided otherwise by law.

4. A mortgagee who agrees to a foreclosure pursuant to this section shall not report to a credit bureau that the mortgagor is delinquent on the mortgage. However, the mortgagee may report that this foreclosure procedure was used.

**Sec. 47. NEW SECTION. 654.16 DEED IN LIEU OF FORECLOSURE.**

In lieu of a foreclosure action in court due to default on a recorded mortgage or deed of trust of real property, if the subject property is agricultural land used for farming, as defined in section 172C.1, the mortgagee and mortgagor may enter into an agreement in which the mortgagor agrees to transfer the agricultural land to the mortgagee in satisfaction of all or



part of the mortgage obligation as agreed upon by the parties. The agreement may grant the mortgagor a right to purchase the agricultural land for a period not to exceed five years, and may entitle the mortgagor to lease the agricultural land. The agreement shall be recorded with the deed transferring title to the mortgagee. A transfer of title and agreement pursuant to this section does not constitute an equitable mortgage.

**Sec. 48. NEW SECTION. 28.101 INTENT.**

It is the intent of the general assembly that this division be used to enhance Iowa's agricultural exports, to assist exporters and producers of agricultural products, and to take advantage of the Export Trading Company Act of 1982, Pub. L. No. 97-290.

**Sec. 49. NEW SECTION. 28.102 AUTHORIZED CORPORATION.**

There may be incorporated under chapter 496A a corporation which shall be known as the Iowa export trading company. If incorporated, this corporation shall be established by the director of the Iowa development commission. The initial board of directors shall consist of the director and six additional members appointed by the director. The six members appointed by the director shall be knowledgeable in the area of farming, exporting, or marketing finance. The commission may expend an amount not to exceed one hundred thousand dollars necessary to establish and operate the export trading company until the completion of the public offering of stock. The funds used shall be repaid to the commission upon completion of its public offering of stock. Financing for the export trading company shall initially come from its public offering of stock to residents of this state. In preparation for this sale, a detailed marketing study shall be conducted which will serve as the basis for the company work plan and the company prospectus. After the sale of stock, provision shall be made for the election of a board of directors by the stockholders to replace the initial board of directors. However, the director of the Iowa development commission shall be an ex officio member of the board representing the state of Iowa. The director of the Iowa development commission shall also serve as an agent for the company.

The articles of incorporation of the company and the prospectus on the issuance of stock in the company shall provide that only residents of the state may be owners of the stock of the company and shall provide a prohibition against the takeover of the company.

**Sec. 50. NEW SECTION. 28.103 PURPOSES AND POWERS.**

1. The purposes of the Iowa export trade company are to assist agricultural exporters, expand existing markets, and develop new markets through, but not limited to, direct contracts with foreign governments or their agencies, specialty-type deliveries, and countertrade options. Specialty-type deliveries include small deliveries of grains or other agricultural products to countries with inadequate storage capacities or high quality grain deliveries through reduced blending.

2. The Iowa export trade company has the powers necessary to fulfill the purposes of this division and those provided in chapter 496A and the Export Trading Company Act of 1982, Pub. L. No. 97-290 which are not inconsistent with or limited by this division.

**Sec. 51.** An interim study committee is created for the purpose of studying farm financial stress. There shall be at least ten members on the study committee who shall be appointed by the legislative council and whose membership may include, but shall not be limited to, members of the general assembly representing both houses and both political parties, persons representing the lending industry and the agricultural industry, and other persons deemed necessary by the legislative council. The study committee shall coordinate its efforts with Iowa state university. The study committee shall be under the management and control of the legislative council. The study committee may investigate, research, hold hearings, and make

recommendations accompanied by bill drafts designed to carry out those recommendations, and generally exercise the powers and duties provided for legislative committees and study committees as provided in chapter 2. Specific purposes of the study committee are to review new data and develop better understandings about the causes and trends in farm financial stress; to monitor the private and public actions and programs at work to resolve the crisis; to examine the probable "ripple" or general economic effects of farm financial stress and the effects on rural nonfarm businesses, lenders, cooperatives, and main street businesses; to analyze the ownership patterns of farms and control of input supply businesses, farm related factories, grain elevators and meat processing plants; to anticipate the effect on the Iowa economy and local communities if no action is taken; and to evaluate current or proposed remedies and alternatives such as modification of the Uniform Commercial Code, a limited foreclosure moratorium, permission for lenders to hold land, special education for adults through programs such as ASSIST, the Rural Concerns Hotline, the displaced farmers program, tax exempt state bonds to provide low interest credit, loan guarantees, state or federal appropriations for interest rate "buydowns", an agricultural adjustment corporation, and an agricultural investment bank. The study committee shall make periodic reports to the legislative council and make a final report to the legislative council and the members of the general assembly by January 15, 1986.

Sec. 52. The legislative council shall establish a joint interim committee of the senate and of the house to study the necessity and desirability of initiating a title guarantee program as passed by the house on March 28, 1985 or the establishment or authorization of other title guarantee or insurance programs. The committee shall report its findings and recommendations, including any proposed legislation, to the general assembly by January 15, 1986.

Sec. 53. Notwithstanding section 175A.5, the governor shall appoint, subject to the confirmation of the senate, an initial executive director to a term that shall end at midnight on April 30, 1987. Subsequent executive directors shall be appointed to four-year terms as provided in section 175A.5 with the initial four-year term commencing on May 1, 1987.

Sec. 54. Section 19 of this Act is effective March 1, 1986.

Sec. 55. It is the intent of the general assembly that the Iowa finance authority shall not make any title guaranties under the title guaranty program prior to January 1, 1987.

Sec. 56. The Code editor may change any reference to the "Iowa housing finance authority" or the "state housing finance authority" remaining in the Code to the "Iowa finance authority" or "state finance authority".

Approved May 31, 1985

**CHAPTER 253**  
**COMPENSATION AND BENEFITS**  
*S.F. 578*

**AN ACT** relating to the compensation and benefits for public officials and employees by specifying salary rates and ranges, providing adjustments for salary, health insurance, and per diem, and making coordinating amendments to the Code.

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

Section 1. The annual salaries set by the governor for appointed nonelected persons in the executive branch of state government for the fiscal biennium beginning July 1, 1985 and ending June 30, 1987 shall be the same as the annual salaries received by those persons or established for the person's position as of January 1, 1985, and those annual salaries shall be effective for subsequent fiscal years until otherwise provided by the general assembly. The appointment of an appointed nonelected person to a position shall be at an annual salary which does not exceed the annual salary of the appointee's predecessor. The annual salary for a new position shall be established as otherwise provided by law.

Sec. 2. Funds appropriated to the salary adjustment fund and other funds appropriated to the various state departments and agencies shall be used to fund the following annual pay adjustments, expense reimbursement, and benefits not in conflict with the Code:

a. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

b. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

c. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

d. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.

e. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

f. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

g. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

h. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the social services bargaining unit.

i. The annual pay adjustments, related benefits, and expense reimbursement referred to in sections 3 and 4 of this Act for employees not covered by a collective bargaining agreement.

Sec. 3.

1. The merit system pay plan and executive council exempt pay plan provided for in section 19A.9, subsection 2, as they exist for the fiscal years ending June 30, 1985 and June 30, 1986, shall be increased for employees who are not included in a collective bargaining agreement

made final under chapter 20 by one percent for the fiscal year beginning July 1, 1985, effective with the pay period beginning December 13, 1985, and by four percent for the fiscal year beginning July 1, 1986, effective with the pay period beginning December 12, 1986. The merit employment commission shall revise the merit system pay plan and the governor shall revise the executive council exempt pay plan as provided under section 19A.9, subsection 2, by increasing the salary levels for the various grades and steps within the respective plans. In addition to the increase specified above, employees may receive merit increases or the equivalent of a merit increase.

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the state comptroller's payroll system, the department of transportation's payroll system, and the board office employees of the state board of regents shall be increased by the same percent and in the same manner included in subsection 1 of this section.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly pursuant to this Act or set by the governor, employees designated under section 19A.3, subsection 6, and employees under the state board of regents, but subsection 2 of this section does apply to office employees of the state board of regents.

4. Each appointing authority shall determine the percentage increase for each professional and managerial employee's salary provided for under this section and may increase the base salaries of the professional and managerial employees by different percentages in accordance with rules of the merit employment department and policies of the state comptroller, but the average percentage increase for all professional and managerial employees under each appointing authority's jurisdiction made using the appropriations authorized by this Act for the fiscal years beginning July 1, 1985 and July 1, 1986, shall not exceed the average increase provided for in subsection 1 of this section. As used in this section, "professional and managerial employee," means a professional employee as defined in section 20.3, subsection 11 or a representative of a public employer or supervisory employee as defined in section 20.4, subsection 2.

5. The policies for implementation of this section shall be approved by the governor except those policies governing the board office employees of the state board of regents, employees of the legislative department, or employees of the judicial department.

Sec. 4. The funds allocated to the state board of regents for the purpose of providing increases for employees not covered by a collective bargaining agreement shall be used as follows:

1. The amount necessary to fund the fiscal year beginning July 1, 1985, an average base salary increase of two percent and the fiscal year beginning July 1, 1986, an average base salary increase of five point five percent of the base salaries of faculty members and professional and scientific staff members, except board office employees as provided for in section 3, paid during the preceding fiscal year, to be allocated to faculty members and professional and scientific staff members at the discretion of the state board of regents.

2. For employees under the state board of regents' merit system who are not included in the collective bargaining agreement made final under chapter 20, except board office employees, the amount necessary to increase the state board of regents' merit system pay plans as they exist for the fiscal year beginning July 1, 1985, by increasing the salary levels for each grade and step within the plans by one percent for the fiscal year beginning July 1, 1985, effective with the pay period beginning January 1, 1986, and by four percent for the fiscal year beginning July 1, 1986, effective with the pay period beginning January 1, 1987. In addition to the increase specified above, employees may receive merit increases or the equivalent of a merit increase.

Sec. 5. All funds appropriated to the salary adjustment fund for the department of transportation and for the state agencies paid through the state comptroller's centralized payroll system shall be used to fund salary and fringe benefit expenditures for the following periods of time:

1. For the fiscal years beginning July 1, 1985, beginning with the biweekly pay date of July 5, 1985, and ending with the biweekly pay date of June 21, 1986.

2. For the fiscal year beginning July 1, 1986, beginning with the biweekly pay date of July 4, 1986, and ending with the biweekly pay date of June 19, 1987.

Sec. 6. COMPARABLE WORTH ADJUSTMENTS. In the implementation of comparable worth adjustments as otherwise provided by law, no job titles except nursing service director, director of nursing, and director of public health nursing shall be raised above pay grade thirty-two.

Sec. 7. Section 217.23, subsection 2, Code 1985, is amended to read as follows:

2. The department is hereby authorized to expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. However, the reimbursement shall not exceed ~~seventy-five~~ one hundred fifty dollars for each item. The department shall establish rules in accordance with chapter 17A to carry out the purpose of this section.

Approved June 3, 1985

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## CHAPTER 254

### APPROPRIATION FOR SALARIES

*H.F. 780*

**AN ACT** appropriating funds relating to the compensation and benefits for public officials and employees.

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

Section 1.

1. There is appropriated from the general fund of the state to the salary adjustment fund provided for in section 8.43, for the fiscal years beginning July 1, 1985, and July 1, 1986, the following amounts or so much thereof as necessary, to be distributed to the various departments to supplement other funds appropriated by the general assembly:

a. For the fiscal year beginning July 1,		
1985 .....	\$	12,091,500
b. For the fiscal year beginning July 1,		
1986 .....	\$	48,004,900

2. There is appropriated from the road use tax fund of the state to the state department of transportation, for the fiscal years beginning July 1, 1985, and July 1, 1986, the following

amounts or so much thereof as necessary, to be distributed to supplement other funds appropriated by the general assembly:

- a. For the fiscal year beginning July 1, 1985 ..... \$ 212,900
- b. For the fiscal year beginning July 1, 1986 ..... \$ 807,300

3. Notwithstanding section 321.145, there is transferred from the road use tax fund to the general fund of the state for the fiscal years beginning July 1, 1985 and July 1, 1986, the following amounts or so much thereof as necessary which funds shall be appropriated to the department of public safety for the division of highway patrol and uniformed force:

- a. For the fiscal year beginning July 1, 1985 ..... \$ 619,000
- b. For the fiscal year beginning July 1, 1986 ..... \$ 1,103,700

4. There is appropriated from the primary road fund to the state department of transportation, for the fiscal years beginning July 1, 1985, and July 1, 1986, the following amounts or so much thereof as necessary, to be distributed to supplement other funds appropriated by the general assembly:

- a. For the fiscal year beginning July 1, 1985 ..... \$ 1,320,900
- b. For the fiscal year beginning July 1, 1986 ..... \$ 5,666,800

5. Except as otherwise provided in this Act, the amounts appropriated in subsections 1, 2, 3, and 4 shall be used to fund the annual pay adjustments, expense reimbursement, and benefits not in conflict with the Code for public officials and employees as authorized in Senate File 578, enacted by the Seventy-first General Assembly, 1985 Session.

Sec. 2. There is appropriated from the general fund of the state the following amounts to the designated political subdivisions or public agencies:

	<u>1985-1986</u> Fiscal Year	<u>1986-1987</u> Fiscal Year
1. To the department of public instruction for allocation to merged area schools as defined in section 280A.2 .....	\$ 2,199,400	\$ 3,196,400
Of the funds appropriated under this subsection for each fiscal year, two million (2,000,000) dollars shall be used for pay adjustments for full-time nonadministrative certificated employees in addition to any agreement negotiated under chapter 20 or other salary adjustments or agreements. The allocation shall be distributed in the same proportion as each school's full-time nonadministrative certificated employees are to the total number of full-time nonadministrative certificated employees at all merged area schools.		
The state board of public instruction shall formulate an auditable student counting system that uniformly reports and accounts for student credit hours in all merged area schools. This student counting system should provide the basis for allocating future state general aid, state vocational aid and federal vocational aid on an equitable basis for the fiscal year beginning July 1, 1986.		
2. To the judicial district departments of correctional services as defined in section 905.1 .....	\$ 50,000	\$ 300,200
3. To the seven regional libraries of the regional library system as defined in section 303B.2 .....	\$ 5,800	\$ 34,500

4. To the substance abuse treatment facilities receiving substance abuse program grants as provided in section 125.25 .....	\$	26,500	\$	158,700
5. To local boards of health receiving in-home health care grants .....	\$	7,700	\$	46,400
6. Local homemaker/chore service program .....	\$	25,900	\$	155,200

The state comptroller shall allocate and distribute each of the amounts specified in this section to the programs indicated for that fiscal year. Moneys received by local programs under this subsection shall be used to pay the state's share of the authorized salary increases for the local program employees for the designated fiscal years.

Sec. 3. Funds appropriated from the general fund of the state in this Act relate only to salaries supported from general fund appropriations of the state.

Sec. 4. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax fund, for which the general assembly has established an operating budget, a supplemental authorization is provided for those funds, unless otherwise provided, in an amount necessary to fund salary adjustments provided in Senate File 578, enacted by the Seventy-first General Assembly, 1985 Session.

Sec. 5. 1985 Iowa Acts, Senate File 434, section 14, is amended to read as follows:

SEC. 14. The amount of the funds appropriated under section 1, except section 1, subsection 4 and subsection 8, paragraph "b", and sections 2, 5, 7, and 8 and 9 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

Sec. 6. All federal grants to and the federal receipts of the agencies affected by this Act and Senate File 578, enacted by the Seventy-first General Assembly, 1985 Session which are received and may be expended for purposes of Senate File 578 enacted by the Seventy-first General Assembly, 1985 Session, are appropriated for those purposes and as set forth in the federal grants of receipts.

Approved June 3, 1985

**CHAPTER 255****APPROPRIATIONS TO REGULATORY AND LICENSING AGENCIES***S.F. 269*

**AN ACT** relating to and making appropriations to various state regulatory and licensing departments, boards, and commissions.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the following boards the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1985-1986 <u>Fiscal Year</u>
1. BOARD OF ARCHITECTURAL EXAMINERS	
For salaries, support, maintenance, and other operational purposes .....	\$ 39,000
2. BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS	
For salaries, support, maintenance, and other operational purposes .....	\$ 10,000
3. BOARD OF ACCOUNTANCY	
For salaries, support, maintenance, and other operational purposes .....	\$ 256,000
4. STATE BOARD OF ENGINEERING EXAMINERS	
For salaries, support, maintenance, and other operational purposes .....	\$ 124,000
5. IOWA REAL ESTATE COMMISSION	
For salaries, support, maintenance, and other operational purposes .....	\$ 323,000
6. BOARD OF MEDICAL EXAMINERS	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 639,000
7. BOARD OF NURSE EXAMINERS	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 558,000
8. BOARD OF PHARMACY EXAMINERS	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 367,000
9. BOARD OF DENTAL EXAMINERS	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 112,000



It is the intent of the general assembly that the boards of architectural examiners, engineering examiners and landscape architectural examiners study the feasibility of combining the administrative aspects of the three boards under one administrative structure and merger of the three individual boards into one board representing all three professional licensing bodies. The study group shall present its final report with recommendations by January 15, 1986 to the regulatory and licensing appropriations subcommittee. The licensing boards for which general fund appropriations have been provided for in subsections 1, 2, 4, 6, 7, 8 and 9 may expend additional funds, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before a licensing board included in subsection 1, 2, 4, 6, 7, 8 or 9 expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the board and the board does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the following named agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. AUDITOR OF STATE

For salaries, support, maintenance, and other operational purposes ..... \$ 2,011,000

2. DEPARTMENT OF BANKING

For salaries, support, maintenance, and other operational purposes ..... \$ 3,804,000

The department of banking may expend additional funds, if those additional expenditures are actual expenses which exceed the funds budgeted for banking institution examinations and directly result from examinations of banking institutions. Before the department expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the department and that the department does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the department may expend and encumber funds for excess examination expenses. The amounts necessary to fund for excess examination expenses shall be collected from those banking institutions being examined which caused the excess expenditures and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

3. IOWA BEER AND LIQUOR CONTROL DEPARTMENT

For salaries, support, maintenance, and other operational purposes which includes one hundred ninety-three thousand dollars for the establishment of ministores ..... \$ 19,363,000

Any amount of the one hundred ninety-three thousand dollars for the establishment of ministores that remain unobligated on June 30, 1986 shall revert to the general fund of the state.

4. CAMPAIGN FINANCE DISCLOSURE  
COMMISSION

For salaries, support, maintenance, and  
other operational purposes ..... \$ 137,034

5. CREDIT UNION DEPARTMENT

For salaries, support, maintenance, and  
other operational purposes ..... \$ 560,000

6. INSURANCE DEPARTMENT OF  
IOWA

For salaries, support, maintenance, and  
other operational purposes ..... \$ 2,937,000

The insurance department may expend additional funds, if those additional expenditures are actual expenses which exceed the funds budgeted for insurance company examinations and directly result from examinations of insurance companies. Before the department expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the department and that the department does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the department may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those insurance companies being examined which caused the excess expenditures and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

7. BUREAU OF LABOR

For salaries, support, maintenance, and  
other operational purposes ..... \$ 1,582,422

8. OCCUPATIONAL SAFETY AND  
HEALTH REVIEW COMMISSION

For salaries, support, maintenance, and  
other operational purposes ..... \$ 49,505

9. PUBLIC EMPLOYMENT RELATIONS  
BOARD

For salaries, support, maintenance, and  
other operational purposes ..... \$ 564,000

10. SECRETARY OF STATE

For salaries, support, maintenance, and  
other operational purposes ..... \$ 1,134,000

Sec. 3. The secretary of state shall not collect a fee for providing persons with the Iowa official register. If additional copies of the Iowa official register are required for distribution, the secretary of state shall not reprint the most expensive version of the Iowa official register but shall reprint the version that is less expensive for distribution.

Sec. 4. It is the intent of the general assembly that the funding mechanism of the Iowa racing commission be reviewed, including necessary statutory changes required to allow for direct legislative oversight of the commission's revenues and expenditures. It is further the intent of the general assembly that any changes to the commission's budgeting process be effective not later than July 1, 1987.

Sec. 5. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts unless otherwise provided by the general assembly.

Approved April 8, 1985

**CHAPTER 256**

**APPROPRIATIONS TO BANKING, MANAGEMENT, LOTTERY,  
DEVELOPMENT AND DISASTER AGENCIES**

*H.F. 642*

**AN ACT** relating to and making appropriations to the department of banking, state comptroller, department of general services, the Iowa lottery agency, the Iowa development commission, and office of disaster services and providing an effective date.

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

Section 1. There is appropriated from the general fund of the state to the department of banking for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the sum of forty-one thousand three hundred eighty (41,380) dollars, or so much thereof as may be necessary, to supplement funds appropriated by 1984 Iowa Acts, chapter 1304, section 2, subsection 2.

Sec. 2. There is appropriated from the general fund of the state to the state comptroller for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the following amounts, or so much thereof as may be necessary, to supplement funds appropriated by 1984 Iowa Acts, chapter 1304, section 2, subsection 7, paragraphs "a" and "b":

1. General office .....	\$	196,434
2. Division of data processing .....	\$	1,771,336

Notwithstanding 1984 Iowa Acts, chapter 1304, section 2, subsection 7, unnumbered paragraph 2, only thirty-four thousand two hundred eighty-two (34,282) dollars and two hundred twenty-eight thousand six hundred sixty-four (228,664) dollars may be transferred by the state comptroller to the state comptroller from the savings resulting from implementing recommendations for the purposes provided in subsections 1 and 2 of this section, respectively.

Sec. 3. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the sum of one hundred twenty thousand one hundred twenty-two (120,122) dollars, or so much thereof as may be necessary, to supplement funds appropriated by 1984 Iowa Acts, chapter 1301, section 3, subsection 1.

Notwithstanding 1984 Iowa Acts, chapter 1301, section 3, subsection 1, unnumbered paragraph 1, only seventy-nine thousand eight hundred seventy-eight (79,878) dollars may be transferred by the state comptroller to the department of general services from savings for the purposes provided in this section.

Sec. 4. Notwithstanding 1984 Iowa Acts, chapter 1304, section 2, subsection 7, unnumbered paragraph 2, the comptroller shall reduce quarterly allocations of funds appropriated to other agencies to reflect savings made as a result of implementing recommendations of the governor's task force on efficiencies and cost effectiveness. To the extent that the reductions exceed the transfers authorized by this Act, those funds shall revert to the general fund of the state.

Sec. 5. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the sum of three hundred forty-five thousand (345,000) dollars, or so much thereof as may be necessary to supplement funds appropriated by 1984 Iowa Acts, chapter 1315, section 32, subsection 2, paragraphs "a", "c", and "i". Notwithstanding section 8.33, unobligated or unencumbered funds appropriated under this subsection shall remain available for expenditure during the fiscal year beginning July 1, 1985 and those funds remaining as of June 30, 1986 shall revert to the general fund of the state on September 30, 1986.

Sec. 6. There is appropriated from the general fund of the state to the office of disaster services for the fiscal year beginning July 1, 1984 and ending June 30, 1985 the sum of one hundred ninety-one thousand five hundred eighty-six (191,586) dollars, or so much thereof as may be necessary, to provide the state match of ten percent for federal financial assistance relating to the presidential disaster declaration on July 13, 1984 in Fremont and Pottawattamie counties.

Sec. 7. Notwithstanding section 8.33, funds appropriated by 1984 Iowa Acts, chapter 1304, section 2, subsection 17, paragraph "b", for the editing and printing of the Iowa official register which are unobligated on June 30, 1985 shall not revert but shall be used until June 30, 1986 and shall be used for the postage expense of distribution.

Sec. 8. There is appropriated from the general fund of the state to the Iowa lottery agency for the fiscal period beginning on the effective date of this Act and ending June 30, 1986 the sum of three million one hundred fifty-nine thousand seven hundred (3,159,700) dollars, or so much thereof as is necessary, for salaries, support, maintenance and other operational purposes of the Iowa lottery agency. All proposals for the operations of the Iowa lottery agency shall be reviewed by the legislative council. The Iowa lottery agency shall submit a budget to the legislative council covering the period beginning August 1, 1985 and ending January 31, 1986 and a budget to the general assembly for the period beginning February 1, 1986 through June 30, 1986 and for the 1986-1987 fiscal year.

Sec. 9. Section 99E.10, subsection 1, unnumbered paragraph 1, 1985 Iowa Acts, House File 225, section 110, as amended by 1985 Iowa Acts, Senate File 395, section 114, is amended to read as follows:

1. Upon receipt of any revenue, the commissioner shall deposit the moneys in the lottery fund created pursuant to section 99E.20. As nearly as is practicable, fifty percent of the projected annual revenue, after deduction of the amount of the sales tax and repayment to the general fund of the loan for start-up purposes of the Iowa lottery, computed on a year-round average basis for each type of lottery game accruing from the sale of tickets or shares is appropriated for payment of prizes to the holders of winning tickets. After the payment of prizes, all of the following shall be deducted from lottery revenue prior to disbursement:

Sec. 10. 1985 Iowa Acts, House File 225, section 301, paragraph d, is amended to read as follows:

d. Before the treasurer makes the allotments under paragraphs "a", "b", and "c", the treasurer shall repay to the general fund the loan for start-up purposes of the Iowa lottery, shall repay to the general fund the sum of one million twenty thousand dollars which was

appropriated for the fiscal year beginning July 1, 1985 from the general fund to the department of general services for capitol building restoration and major repairs, and shall repay to the general fund the sum of five million two hundred fifty thousand dollars which was appropriated for the fiscal period beginning July 1, 1985 and ending June 30, 1989 from the general fund to the department of general services for the engineering, planning and construction of a new state historical building under 1984 Iowa Acts, chapter 1316, section 4.

Sec. 11. There is appropriated from the general fund of the state to the Iowa development commission for the fiscal period beginning on the effective date of this Act and ending June 30, 1985 the sum of two hundred thousand (200,000) dollars, or so much thereof as is necessary, for its advertising and tourism budget. The Iowa development commission shall transfer from any other funds received for its advertising and tourism budget an amount up to or equal to two hundred thousand (200,000) dollars received during the fiscal year beginning July 1, 1985 and ending June 30, 1986 which funds shall be transferred to the general fund of the state not later than June 30, 1986 to replace those funds received under this section for the fiscal period beginning on the effective date of this Act and ending June 30, 1985.

Sec. 12. 1985 Iowa Acts, House File 225, section 303, is amended to read as follows:

SEC. 303. For each of the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, the Iowa ~~partnership for economic progress advisory committee~~ established under division IV of this Act development commission shall submit to the general assembly by March 1 preceding the beginning of the fiscal year planned expenditures from the allotment to be made for that fiscal year to the community economic betterment account, the jobs now account, and the education and agriculture research and development account to each of the funds, agencies, boards or commissions for the purposes specified in subsections 2, 3, and 4 of section 302 of this Act. The Iowa ~~partnership for economic progress~~ development commission shall include a description of planned expenditures to be made of the moneys in the surplus account.

Plans may provide for increased or decreased expenditures if the allotment available for those appropriations is greater than or less than the allotment specified in subsection 1 of section 302 of this Act. In order to enable the Iowa ~~partnership for economic progress~~ development commission to prepare its plans for future expenditures, it has authority to review applications and uses of the moneys appropriated from each allotment. However, this authorized review does not authorize the Iowa ~~partnership for economic progress~~ development commission to veto or deny any application or use and such review shall not cause any delay in the approval of an application or use.

Sec. 13. 1985 Iowa Acts, House File 225, section 602, subsection 2, unnumbered paragraph 1, is amended to read as follows:

To aid in fulfilling the purpose of the primary research and marketing center for business and international trade, the commission may provide grants to establish satellite centers throughout the state. To facilitate establishment of satellite centers, the state is divided up into fifteen regional economic delivery areas which have the same area boundaries as merged areas, as defined in section 280A.2, in existence on the effective date of this section. Each regional delivery area wishing to receive a grant from the commission to establish a satellite center in its area shall create a regional coordinating council which shall develop a plan for the area to coordinate all federal, state, and local economic development services within the area. After developing this plan, the council may seek a grant for a satellite center by submitting the coordinating plan and an application for a grant to the Iowa development commission. A grant shall not be awarded within the regional economic delivery area without the approval of the regional coordinating plan by the Iowa ~~partnership for economic progress~~

created in division IV of this Act development commission. The Iowa partnership for economic progress development commission may rescind its approval of a regional coordinating plan upon thirty days notice, if the Iowa partnership for economic progress development commission determines that the stated purpose of the plan is not being carried out. The Iowa partnership for economic progress development commission may then accept an alternative proposal for a regional coordinating plan. If a regional coordinating council is awarded a grant for a satellite center, it shall employ a center director at the satellite center. The center director's duties and responsibilities include the following:

Sec. 14. 1985 Iowa Acts, House File 225, section 106, is amended to read as follows:

SEC. 106. NEW SECTION. 99E.6 BOARD QUALIFICATIONS.

Board members shall be residents of this state. ~~At~~ Except for the initial appointees, at least one member of the board shall be a person who has been a law enforcement officer for not less than five years, one member shall be an attorney admitted to the practice of law in Iowa for not less than five years, and one member shall be a certified public accountant who has practiced accountancy in Iowa for not less than five years.

Sec. 15. This Act, being deemed of immediate importance, takes effect from and after its publication in the Solon Economist, a newspaper published in Solon, Iowa, and in the Oskaloosa Daily Herald, a newspaper published in Oskaloosa, Iowa.

Approved May 2, 1985

I hereby certify that the foregoing Act was published in the Solon Economist, Solon, Iowa on May 7, 1985 and in the Oskaloosa Daily Herald, Oskaloosa, Iowa on May 7, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 257**

**APPROPRIATIONS TO BUSINESS, TRADE AND TRANSPORTATION**

*S.F. 562*

**AN ACT** relating to and making appropriations to various state commissions, departments, and agencies relating to business, trade, and transportation.

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

Section 1. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986
	<u>Fiscal Year</u>
1. IOWA STATE COMMERCE COMMISSION	
For salaries, support, maintenance, and other operational purposes .....	\$ 5,885,720

2. CONSUMER ADVOCATE	
For salaries, support, maintenance, and other operational purposes .....	\$ 909,894
3. INDUSTRIAL COMMISSIONER	
For salaries, support, maintenance, and other operational purposes .....	\$ 994,023
4. IOWA DEPARTMENT OF JOB SERVICE AND REFUGEE CENTER	
For salaries, support, maintenance, and other operational purposes for the administration of chapter 97 and chapter 97C and section 294.15 .....	\$ 161,247
5. OFFICE FOR PLANNING AND PROGRAMMING	
a. Iowa highway safety program	
For salaries, support, maintenance, and miscellaneous purposes to provide a cost-effective traffic safety program through the administration of federal highway safety contracts to state and local governmental agencies .....	\$ 82,423
b. Youth services administration	
For salaries, support, maintenance, and miscellaneous purposes to develop and administer employment opportunity programs for the youth .....	\$ 75,000
c. General operating account	
For salaries, support, maintenance, and miscellaneous purposes to provide overall direction, planning, and administrative support to local, state, and federal programs .....	\$ 580,042
d. Economic analysis and planning assistance	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 150,000
e. Statistical analysis center	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 190,000
It is a condition of this appropriation that the center have a respected criminal justice authority independently validate the center's risk assessment model.	
f. Iowa youth corps	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 874,800
g. Community development block grant administration and related federal housing and urban development community development grant administration	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 116,655

h. Community development loan fund		
For deposit into the community develop-		
ment loan fund .....	\$	1,000,000
i. Cultural community grants		
For the purposes of the cultural community		
grants program established under 1983 Iowa		
Acts, chapter 207, section 92 .....	\$	300,000
Notwithstanding section 8.33, the unencumbered or unobligated balance remaining as of June 30, 1985 of the appropriation made under 1984 Iowa Acts, chapter 1301, section 10, subsection 8, paragraph "j", may be used for fund grants to cities and community groups for the development of community programs that would provide local jobs for Iowa residents and promote a city's historical, ethnic, and cultural heritages as provided in 1984 Iowa Acts, chapter 1301, section 10, subsection 8, paragraph "j", through December 31, 1985. The unencumbered or unobligated balance of the funds appropriated under 1984 Iowa Acts, chapter 1301, section 10, subsection 8, paragraph "j", which remain after December 31, 1985, shall revert to the general fund of the state on January 1, 1986.		
j. Job training partnership Act: dislocated worker		
For salaries, support, maintenance, and miscellaneous purposes to develop and administer the job training partnership Act .....	\$	1,063,387
k. Retired senior volunteer program		
For salaries, support, maintenance, and miscellaneous purposes .....	\$	15,000
From the funds appropriated by subsection "k", each local program is allocated two hundred (200) dollars, with the remaining appropriation to be allocated to the local programs by the commission on aging.		
l. The Governor's office for volunteers .....	\$	20,000
<b>6. DEPARTMENT OF REVENUE</b>		
For salaries, support, maintenance, and other operational purposes .....	\$	16,329,241
<b>7. TREASURER OF STATE</b>		
a. For salaries, support, maintenance and other operational purposes .....	\$	512,295
b. For tick meters for the redemption center .....	\$	18,000
<b>8. IOWA ACADEMY OF SCIENCE</b>		
For support and maintenance .....	\$	60,400
Sec. 2. There is appropriated from the general fund of the state to the moneys and credits replacement fund established in section 422.100 for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the sum of two million five hundred thousand (2,500,000) dollars, or so much thereof as may be necessary, to be used for payments to counties as provided in section 422.100.		
Sec. 3. IOWA DEVELOPMENT COMMISSION. There is appropriated from the general fund of the state to the Iowa development commission for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:		



1985-1986  
Fiscal Year

- 1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 3,906,425
- 2. For the advertising and marketing budget ..... \$ 100,000

It is the intent of the general assembly that appropriate state agencies assist the Iowa development commission in marketing and promoting Iowa as a geographical center for the location of organizations such as the United States institute of peace and the council of state governments.

3. HIGH TECHNOLOGY COUNCIL

- a. For support, maintenance, and miscellaneous purposes ..... \$ 40,000
- b. For high technology research grants ..... \$ 900,000

4. From funds appropriated by subsection 1 the Iowa development commission shall allocate not to exceed thirty-five thousand (35,000) dollars for the fiscal year beginning July 1, 1985 and ending June 30, 1986 for the seven regional tourism districts, not to exceed seven thousand (7,000) dollars per district, for each district which provides on a dollar-to-dollar matching basis funds equal to the amount allocated by the Iowa development commission.

4. IOWA PRODUCT DEVELOPMENT CORPORATION FUND

For the purposes provided in section 28.89 ..... \$ 300,000

Notwithstanding section 8.33, unencumbered and unobligated funds appropriated in this subsection shall not revert to the general fund.

Sec. 4. STATE FAIR BOARD. There is appropriated from the general fund of the state to the Iowa state fair board for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following sums, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

- 1. For maintenance of state fair buildings and grounds ..... \$ 20,000
- 2. For premiums ..... \$ 9,000
- 3. For state aid to agricultural societies (local fairs) ..... \$ 100,000

4. The appropriation contained in subsection 3 for state aid to agricultural societies is conditional upon full compliance with all other statutes which regulate and prescribe the conditions under which the aid is available. The moneys shall not be used for other than the payment of cash premiums, and a county shall not receive more than one thousand (1,000) dollars except that in a county where there are two definitely separate county extension offices, each society shall receive state aid in the amount it would be entitled to if it were the only society in the county. In counties having more than one fair entitled to state aid, the state aid available shall be prorated to the fairs based on cash premiums paid by the fairs. If the amount appropriated does not fund all claims, the state aid shall be reduced proportionately to equal the amount appropriated.

Sec. 5. There is appropriated from the motor vehicle fuel tax fund to the department of revenue for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as may be necessary, for salaries, support, maintenance, and other operational purposes for administration and enforcement of the provisions of chapter 324 and the motor vehicle use tax program:

	1985-1986
	<u>Fiscal Year</u>
	\$ 835,000

Sec. 6. There is appropriated from the Iowa public employees' retirement system fund for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the Iowa department of job service, the following amounts, or so much thereof as is necessary, to be used for the following purposes:

	1985-1986
	<u>Fiscal Year</u>

For salaries, support, maintenance, and other operational purposes to pay the costs of administration of the Iowa public employees' retirement system .....	\$ 1,731,342
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Sec. 7. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1985-1986
	<u>Fiscal Year</u>

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 4,947,392
2. For deposit in the public transit assistance fund .....	\$ 1,854,600
3. For deposit in the railroad assistance fund for branch line improvement .....	\$ 950,000

Sec. 8. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1985-1986
	<u>Fiscal Year</u>

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 12,433,503
2. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A .....	\$ 16,000
3. Unemployment compensation .....	\$ 12,250
4. For entrance to Marquisville garage .....	\$ 150,000

Sec. 9. There is appropriated from the road use tax fund to the state comptroller for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the sum of thirty-two thousand seven hundred fifty (32,750) dollars, or so much thereof as is necessary, to be used for the purpose of paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation.

Sec. 10. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1985-1986  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 128,873,000

It is a condition of this appropriation that a highway engineering consulting contract shall not be awarded to any individual who has been employed on a full-time basis for a period of more than six months by the state department of transportation within two years of the individual's employment termination date with the state department of transportation.

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

3. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A ..... \$ 304,000

4. Unemployment compensation ..... \$ 232,750

Sec. 11. There is appropriated from the primary road fund to the state comptroller for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the sum of six hundred twenty-two thousand two hundred fifty (622,250) dollars, or so much thereof as is necessary, for the purpose of paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation.

Sec. 12. There is appropriated from the state aviation fund to the state department of transportation for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1985-1986  
Fiscal Year

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 329,000

Sec. 13. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1985-1986  
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For replacement of field facilities ..... \$ 600,000

2. For Atlantic materials laboratory ..... \$ 210,000

3. Any unencumbered balance remaining as of June 30, 1989 of the funds appropriated by this section shall revert to the primary road fund on September 30, 1989.

Sec. 14. There is appropriated from the road use tax fund to the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the sum of three million six hundred two thousand eight hundred seventy-five (3,602,875) dollars to fund the operation and administration of the driver's license program within the state department of transportation.

Sec. 15. Notwithstanding section 321.145, there is transferred from the road use tax fund to the general fund of the state the sum not to exceed eighteen million sixty-four thousand (18,064,000) dollars for the fiscal year beginning July 1, 1985 and ending June 30, 1986 which funds shall be appropriated to the department of public safety for the highway patrol and uniformed force for the administration and supervision of the public highways. However, the unfunded liability of the peace officers retirement accident and disability system, as of July 1, 1985, shall not be considered a liability of the road use tax fund.

Sec. 16. Section 28.89, Code 1985, is amended to read as follows:

**28.89 IOWA PRODUCT DEVELOPMENT CORPORATION FUND.**

There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of powers granted to the corporation under this division shall be paid into the Iowa product development corporation fund notwithstanding section 12.10. The money in the Iowa product development corporation fund, except moneys held by a trustee or a depository pursuant to a bond resolution or indenture relating to the issuance of bonds or notes pursuant to sections 28.90 or 28.91, shall be paid out on the order of the person authorized by the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division and the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required. Notwithstanding section 8.33, no part of this fund shall revert at or after the close of a fiscal year unless otherwise provided by the general assembly, but shall remain in the fund and appropriated for the purposes of this division. The board shall seek to repay the state for general fund appropriations by recommending to the general assembly reversions from income received from successful ventures. The board shall recommend such action at any time when the revenue available to the board is deemed sufficient to continue existing operations.

Sec. 17. Section 28.90, Code 1985, is amended to read as follows:

**28.90 PRODUCT DEVELOPMENT CORPORATION NOTES.**

The corporation may issue Iowa product development corporation fund notes, the principal and interest of which shall be payable solely from the Iowa product development corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at such times not exceeding ten years from their dates of issue, and may be made redeemable before maturity, at the option of the corporation, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund

notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the Iowa product development corporation fund. The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

Sec. 18. Section 28.91, subsection 1, Code 1985, is amended to read as follows:

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

Sec. 19. Section 307B.23, Code 1985, is amended to read as follows:

**307B.23 SPECIAL RAILROAD FACILITY FUND.**

There is created in the office of the state treasurer a "special railroad facility fund". This fund shall include moneys credited to this fund under sections 307.29, 435.9, ~~324A.9~~, and other funds which by law may be credited to the special railroad facility fund. The moneys in the special railroad facility fund are hereby appropriated to and for the purposes of the authority as provided in this chapter. The funds in the special railroad facility fund shall not be considered as a part of the general fund of the state, shall not be subject to appropriation for any other purpose by the general assembly, and in determining a general fund balance shall not be included in the general fund of the state but shall remain in the special railroad facility fund to be used for the purposes set forth herein. The ~~state treasurer of state~~ shall act as custodian of the fund and disburse amounts contained in it as directed by the authority. The ~~state treasurer of state~~ is authorized to invest the funds deposited in the special railroad facility fund at the direction of the authority and subject to any limitations contained in the bond proceedings. The income from such investment shall be credited to and deposited in the special railroad facility fund. This fund shall be administered by the authority and may be used to purchase or upgrade railroad right-of-way and trackage facilities or to purchase general or limited partnership interests in a partnership formed to purchase, upgrade, or operate railroad right-of-way and trackage facilities, to pay or secure obligations issued by the authority, to pay obligations, judgments, or debts for which the authority becomes liable in its capacity as a general partner, or for any other use authorized under this chapter. The fund may also be used to purchase or upgrade railroad right-of-way and trackage facilities for the development of railroad passenger tourism.

Any moneys credited to the special railroad facility fund under ~~sections section 435.9 and 324A.9~~ shall be deposited in a separate account within the special railroad facility fund. The authority may issue obligations under this chapter which are secured solely by the moneys to be deposited in that separate account and the holders or owners of any such obligations shall have no rights to payment of bond service charges from any other funds in the special railroad facility fund, including any moneys accruing to the authority from the lease, sale or other disposition, or use of railway facilities, or from payment of the principal of or interest on loans made, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges on any such obligations, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations.

Sec. 20. Section 321E.1, Code 1985, is amended to read as follows:

**321E.1 PERMITS BY DEPARTMENT.**

The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery or asphalt repavers being temporarily moved on streets, roads or highways and for vehicles with indivisible loads which exceed the maximum dimensions and weights specified in sections 321.452 to 321.466, but not to exceed the limitations imposed in sections 321E.1 to 321E.15 except as provided in sections 321E.29 and 321E.30. Vehicles permitted to transport indivisible loads may exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load. Permits issued may be single-trip permits or annual permits. Permits shall be in writing and shall be carried in the cab of the vehicle for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by a peace officer or an authorized agent of a permit granting authority. When in the judgment of the issuing local authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits issued by local authorities shall designate the days when and routes upon which loads and construction machinery may be moved within the county on other than primary roads.

Sec. 21. Section 324A.2, subsection 4, Code 1985, is amended to read as follows:

4. "Railroad company" means a person responsible for the operation of a railway vehicle within this state, except where the operation of the railway vehicle is limited to operation only within the geographical confines of a manufacturing plant or facility.

Sec. 22. The amount of the funds appropriated under sections 1, 2, 3, 4, 7, 14, and 15 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

Sec. 23. Any public transit system which received funds from the state department of transportation pursuant to 1983 Iowa Acts, chapter 198, section 31, and which have earmarked the federal funds received for repayment of the interest-free loan shall repay the loan to the state department of transportation not later than December 31, 1985. This section applies to any public transit system which had these funds earmarked on April 1, 1985. Any funds received by the state department of transportation under this section shall be credited to the road use tax fund.

Sec. 24. Total appropriations specified in this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceeds four and one-half percent.

Sec. 25. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants and receipts unless otherwise provided by the general assembly.

Approved May 3, 1985

## CHAPTER 258

### APPROPRIATIONS TO VARIOUS EXECUTIVE AND LEGISLATIVE AGENCIES

*S.F. 434*

AN ACT relating to and making appropriations to various executive and legislative departments, bureaus, and agencies.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the following named agencies, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
<b>1. OFFICE OF ADMINISTRATIVE RULES COORDINATOR</b>	
For salaries, support, maintenance, and miscellaneous purposes of the office of the administrative rules coordinator only .....	\$ 63,229
<b>2. CAPITOL PLANNING COMMISSION</b>	
For per diem of forty dollars per day and expenses of the members in carrying out their duties under chapter 18A .....	\$ 2,756
<b>3. STATE COMPROLLER</b>	
<b>a. General Office</b>	
For salaries, support, maintenance, and other operational purposes including the transfer of one full-time equivalent position from the data processing division to the general office and funding for an econometric forecasting model .....	\$ 1,697,016

It is the intent of the general assembly that the individual budgets of state agencies have been reduced two million five hundred thousand (2,500,000) dollars for travel, two million (2,000,000) dollars for equipment purchases, and one million (1,000,000) dollars for motor vehicle depreciation from the governor's recommended budget.

It is the further intent of the general assembly that the state comptroller may authorize reallocations within an appropriated fund for vehicle depreciation as necessary for an agency to carry out its assigned functions.

b. Division of Data Processing

For salaries, support, maintenance, and other operational purposes ..... \$ 6,780,229

4. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment ..... \$ 46,600

5. EXECUTIVE COUNCIL

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 42,894

6. IOWA MERIT EMPLOYMENT

DEPARTMENT

For the general office for salaries, maintenance, and miscellaneous purposes ..... \$ 1,524,149

In addition to the funds appropriated under this subsection, there is appropriated from the state general fund from funds received from state agencies under section 19A.8, subsection 9, to the Iowa merit employment department for the fiscal year beginning July 1, 1985, the sum of fifty thousand (50,000) dollars for critical operating fund adjustments.

7. DEPARTMENT OF PUBLIC DEFENSE

Military division

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 3,193,091

Notwithstanding section 29A.33, the per capita annual allowance to units will be five dollars per capita to be paid on a semiannual basis in installments of two dollars fifty cents per capita for the fiscal year beginning July 1, 1985 and ending June 30, 1986. The per capita allowance shall be used for morale purposes and be for the welfare of the troops and in no circumstances expended for support and maintenance.

Notwithstanding section 29A.57, the proceeds from the sale of the armory in Dubuque shall revert to the general fund of the state and not to the national guard facilities improvement fund.

It is the intent of the general assembly that the adjutant general of the Iowa national guard present to the members of the state government appropriations subcommittee a detailed report outlining the conditions under which the selective retention program was utilized during the previous year. Such report shall include but not be limited to the ages, ranks and years of service of the guard personnel retained or dismissed.

8. OFFICE OF DISASTER SERVICES

a. For salaries, support, maintenance, and miscellaneous purposes ..... \$ 120,676

b. For the match of federal funds for flood declarations ..... \$ 178,414



9. TERRACE HILL AUTHORITY

For salaries, support, maintenance, and miscellaneous purposes for the operation of Terrace Hill and for conducting public tours ..... \$ 160,960

Of the funds appropriated under this subsection, one thousand five hundred (1,500) shall be used for a downspout on the northwest corner of Terrace Hill and three thousand (3,000) dollars shall be used for the replacement of equipment and for replacement parts for equipment at Terrace Hill.

10. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of members ..... \$ 10,393

Sec. 2. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986
Fiscal Year

1. GENERAL OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 4,967,680

2. UTILITY COSTS

For payment of utility costs ..... \$ 1,954,618

The department of general services may use funds appropriated under this subsection to fund energy conservation projects in the state capitol complex which will have a one hundred percent payback within a twelve month period.

3. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16 ..... \$ 998,186

4. To implement a risk management program ..... \$ 200,000

5. For capitol building restoration and major repairs ..... \$ 1,020,000

Sec. 3. There is appropriated from the revolving funds designated to the department of general services for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as necessary, to be used for the purposes designated:

1985-1986
Fiscal Year

DEPARTMENT OF GENERAL SERVICES - REVOLVING FUNDS

1. From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, and miscellaneous purposes ..... \$ 745,877

2. The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding,

distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 1985 which are legally payable from this fund.

3. From the general service revolving fund established by section 18.9 for salaries, support, maintenance, and miscellaneous purposes ..... \$ 471,050

4. The remainder of the general service revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 1985 which are legally payable from this fund.

5. From the vehicle dispatcher revolving fund established by section 18.119 for salaries, support, maintenance, and miscellaneous purposes ..... \$ 451,940

6. The remainder of the vehicle dispatcher revolving fund is appropriated for the purchase of gasoline, oil, tires, repairs and all other maintenance expenses incurred in the operation of state-owned motor vehicles and for contingencies arising during the fiscal year beginning July 1, 1985 which are legally payable from this fund.

Sec. 4. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1985 and ending June 30, 1986, the following amounts or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
1. For salaries, support, maintenance, and miscellaneous purposes of the general office of the governor .....	\$ 702,769
2. For the governor's expenses connected with office .....	\$ 5,832
3. For salaries, support, and miscellaneous purposes of the governor's quarters at Terrace Hill .....	\$ 60,824
4. For the payment of expenses of ad hoc committees, councils and task forces appointed by the governor to research and analyze a particular subject area relevant to the problems and responsibilities of state and local government, including the employment of professional, technical and administrative staff and the payment of per diem, not exceeding forty dollars, and actual expenses of committee, council or task force members .....	\$ 17,820

Sec. 5. There is appropriated from the general fund of the state to the office of the lieutenant governor for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

For salaries, support, maintenance, and miscellaneous purposes including the lieutenant governor's compensation and expenses as provided in subsection 2 of section 2.10 including service as a member of the legislative council and for per diem and expenses incurred while performing duties of the lieutenant governor when the general assembly is not in session

\$ 115,660

Sec. 6.\* There is appropriated from the general fund of the state to the following named agencies for the fiscal year commencing July 1, 1985 and ending June 30, 1986, the following amounts or so much thereof as is necessary to be used for the purposes designated:

1985-1986  
Fiscal Year

1. LEGISLATIVE FISCAL BUREAU

For salaries, support, maintenance, and miscellaneous purposes

\$ 576,224

2. LEGISLATIVE SERVICE BUREAU

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

\$ 1,055,432

b. For drafting, research, and Code data processing programs and services

\$ 14,434

The legislative council shall allocate staff under its jurisdiction, and may cooperate with other agencies, in order to insure that the Code and a supplement providing for an annual update of the Code is published in a timely manner. The superintendent of printing shall cooperate with the legislative council and any additional costs incurred shall be recovered through the sale of the supplements and the Code.

3. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment

\$ 51,002

4. PIONEER LAWMAKERS

\$ --0--

Sec. 7. There is appropriated from the general fund of the state to the county government assistance fund, established in section 334A.1, for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amount, or so much thereof as may be necessary, to be used for state assistance to counties, with distribution in accordance with section 334A.2. The state comptroller, before making such distribution, shall credit to the county finance committee on July 1, 1985 the sum of ten thousand (10,000) dollars.

1985-1986  
Fiscal Year  
\$ 5,350,000

\*See ch 65, §11

Sec. 8. There is appropriated from the general fund of the state to the municipal assistance fund, established in section 405.1, for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amount, or so much thereof as may be necessary, to be used for state assistance to municipalities, with distribution in accordance with section 405.1. The state comptroller, before making such distribution, shall credit to the city finance committee on July 1, 1985 the sum of ten thousand (10,000) dollars.

	1985-1986
	<u>Fiscal Year</u>
	\$ 14,650,000

Sec. 9. COMPARABLE WORTH PAY ADJUSTMENTS. There is appropriated from the general fund of the state to the salary adjustment fund established in section 8.43 for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of nineteen million (19,000,000) dollars, or so much thereof as is necessary, to be distributed to the various departments to supplement other general fund moneys appropriated by the general assembly to provide salary adjustments resulting from implementing actions taken under 1984 Iowa Acts, chapter 1314, including plans developed for agencies with positions which are exempt or partially exempt from the state merit system pursuant to 1984 Iowa Acts, chapter 1314, section 8.

Sec. 10. Senate File 269, enacted by the Seventy-first General Assembly, 1985 Session, section 1, subsections 1 through 9, are amended to read as follows:

1. BOARD OF ARCHITECTURAL EXAMINERS

For salaries, support, maintenance, and other operational purposes .....	\$	39,000
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2. BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS

For salaries, support, maintenance, and other operational purposes .....	\$	10,000
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3. BOARD OF ACCOUNTANCY

For salaries, support, maintenance, and other operational purposes .....	\$	256,000
		<u>251,700</u>

4. STATE BOARD OF ENGINEERING EXAMINERS

For salaries, support, maintenance, and other operational purposes .....	\$	124,000
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5. IOWA REAL ESTATE COMMISSION

For salaries, support, maintenance, and other operational purposes .....	\$	323,000
		<u>312,447</u>

6. BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes .....	\$	639,000
		<u>623,617</u>

7. BOARD OF NURSE EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes .....	\$	558,000
		<u>553,120</u>

## 8. BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes .....	\$	367,000
		<u>355,368</u>

## 9. BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes .....	\$	112,000
		<u>107,253</u>

Sec. 11. Senate File 269, enacted by the Seventy-first General Assembly, 1985 Session, section 2, subsections 1 through 10, are amended to read as follows:

## 1. AUDITOR OF STATE

For salaries, support, maintenance, and other operational purposes .....	\$	2,011,000
		<u>1,989,039</u>

## 2. DEPARTMENT OF BANKING

For salaries, support, maintenance, and other operational purposes .....	\$	3,804,000
		<u>3,725,000</u>

The department of banking may expend additional funds, if those additional expenditures are actual expenses which exceed the funds budgeted for banking institution examinations and directly result from examinations of banking institutions. Before the department expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the department and that the department does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the department may expend and encumber funds for excess examination expenses. The amounts necessary to fund for excess examination expenses shall be collected from those banking institutions being examined which caused the excess expenditures and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

3. IOWA BEER AND LIQUOR CONTROL  
DEPARTMENT

For salaries, support, maintenance, and other operational purposes which includes one hundred ninety-three thousand dollars for the establishment of agency stores and mini- stores .....	\$	19,363,000
		<u>18,074,000</u>

Any amount of the one hundred ninety-three thousand dollars for the establishment of agency stores and ministores that remain unobligated on June 30, 1986 shall revert to the general fund of the state.

4. CAMPAIGN FINANCE DISCLOSURE  
COMMISSION

For salaries, support, maintenance, and other operational purposes .....	\$	137,034
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## 5. CREDIT UNION DEPARTMENT

For salaries, support, maintenance, and other operational purposes .....	\$	560,000
		<u>547,800</u>

#### 6. INSURANCE DEPARTMENT OF IOWA

For salaries, support, maintenance, and other operational purposes .....	\$	2,937,000
		<u>2,897,000</u>

The insurance department may expend additional funds, if those additional expenditures are actual expenses which exceed the funds budgeted for insurance company examinations and directly result from examinations of insurance companies. Before the department expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the department and that the department does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the department may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those insurance companies being examined which caused the excess expenditures and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

#### 7. BUREAU OF LABOR

For salaries, support, maintenance, and other operational purposes .....	\$	1,582,422
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#### 8. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

For salaries, support, maintenance, and other operational purposes .....	\$	49,505
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#### 9. PUBLIC EMPLOYMENT RELATIONS BOARD

For salaries, support, maintenance, and other operational purposes .....	\$	564,000
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#### 10. SECRETARY OF STATE

For salaries, support, maintenance, and other operational purposes .....	\$	1,134,000
		<u>1,133,882</u>

Sec. 12. The amount of funds appropriated under Senate File 269, enacted by the Seventy-first General Assembly, 1985 Session, sections 1 and 2, except section 2, subsections 3 and 7, for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of Senate File 269, enacted by the Seventy-first General Assembly, 1985 Session.

Sec. 13. Senate File 395, enacted by the Seventy-first General Assembly, 1985 Session, section 88, is amended to read as follows:

SEC. 88. Section 422.69, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** Of the taxes, interests and penalties collected under division IV which are credited to the general fund, an amount equal to the amount estimated by the department not to exceed thirty-five million dollars annually, adjusted as the department deems necessary, shall be set aside into a separate "machinery and equipment refund account" to be used to pay the refunds entitled to under sections 422.47A and 422.47B. The moneys in this separate account shall not be considered part of the state general fund for purposes of the Iowa economic emergency fund under section 8.55. This subsection is repealed April 1, 1988.

Sec. 14. The amount of the funds appropriated under section 1, except section 1, subsection 4 and subsection 8, paragraph "b", and sections 2, 5, 7, and 8 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

Sec. 15. Total appropriations specified in this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceeds four and one-half percent.

Sec. 16. All federal grants to and the federal receipts of the agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Approved May 3, 1985

## CHAPTER 259

### APPROPRIATIONS TO SOCIAL AND HEALTH AGENCIES

*H.F. 771*

**AN ACT** relating to the administration and financing of services and programs under the jurisdiction of the department of human services, the state department of health, the foster care review board, and the commission on children, youth, and families for the fiscal year beginning July 1, 1985, and ending June 30, 1986.

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

Section 1. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services for general administration, including salaries and support of not more than four hundred sixteen and three-quarters full-time equivalent positions annually, maintenance, and miscellaneous purposes, the following amount, or so much thereof as is necessary:

	1985-1986
	<u>Fiscal Year</u>
	\$ 7,860,000

As a condition of the appropriation made by this section, the department, after consultation with provider and consumer organizations, shall adopt rules pursuant to chapter 17A to approve by April 1, 1986 community, supervised apartment living arrangements for per diem or per hour purchase-of-service reimbursements or for grants. For the fiscal year beginning July 1, 1985, and ending June 30, 1986, the department shall continue to reimburse on a per diem basis those providers of community, supervised apartment living arrangements which were reimbursed on a per diem basis during the fiscal year ending June 30, 1985.

Sec. 2. FIELD OPERATIONS AND VOLUNTEERS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
1. For field operations, including salaries and support of not more than two thousand two hundred thirty-six full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 22,500,000

The state comptroller shall expedite the process for hiring protective service workers authorized under this section.

2. For development and coordination of volunteer services .....	\$ 72,000
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Sec. 3. SPECIAL PROGRAMS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
1. For aid to families with dependent children .....	\$ 63,850,000

a. As a condition of the appropriation, effective January 1, 1986, the department shall establish the schedule of basic needs for one person at one hundred sixty-three dollars, for two persons at three hundred twenty-two dollars, for three persons at three hundred eighty-one dollars, for four persons at four hundred forty-three dollars, for five persons at four hundred ninety dollars, for six persons at five hundred forty-five dollars, for seven persons at five hundred ninety-nine dollars, for eight persons at six hundred fifty-three dollars, for nine persons at seven hundred seven dollars, for ten persons at seven hundred seventy-three dollars, and for each additional person at seventy-seven dollars.

b. The department shall study the recipient classifications under the aid to families with dependent children program and the federal-state food stamp program which are subject to the monthly reporting and retrospective budgeting requirements to determine if the classifications are appropriate and if the costs associated with the classifications are justified. The department shall report its findings from the study to the general assembly by January 1, 1986.

c. Effective July 1, 1985, the department shall eliminate the twenty percent copayment for school expenses under the special needs program of the aid to families with dependent children program.

2. For medical assistance, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary. Medically necessary abortions are those performed under any of the following conditions:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.



c. The pregnancy is the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within one hundred fifty days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled . . . . . \$ 120,600,000

Of the funds appropriated by this subsection, not more than two hundred thousand (200,000) dollars may be transferred on or before December 31, 1985, to the state department of health for contingency state assistance for the federal women, infants, and children program in order to allow the state department of health to fully use available federal funds under the program. The state department of health shall notify the commissioner of human services and the state comptroller when a portion of the funds identified by this subsection are needed for the federal women, infants, and children program.

The department shall conduct ex parte reviews of the cases of those persons whose aid to families with dependent children, supplemental security income, or medical assistance benefits have been terminated, in order to determine if the persons are eligible for medical assistance benefits under the medically needy program.

The department shall explore means to make full use of veterans' benefits for those medical assistance recipients in intermediate care facilities whose current eligibility for veterans' benefits has not been established.

The department shall seek to reduce the utilization of surgical procedures with high coefficients of variation under the medical assistance program. The department may develop special utilization review efforts, physician education programs, or may mandate second opinions for selected surgical procedures in order to reduce utilization rates. Subject to the limitation of funds available for this purpose, the department shall collect information on the effectiveness of its efforts to reduce utilization for common surgical procedures with high coefficients of variation and shall report to the general assembly on the effectiveness of its efforts, with a preliminary report due February 1, 1986, and a revised report due January 1, 1987.

The department shall study the feasibility of implementing a comprehensive perinatal services and obstetrical access program under the medical assistance program similar to the program established in the state of California and shall review the cost-effectiveness of implementing a bidding system for providing comprehensive medical coverage for medical assistance recipients under a case-management program. The department shall report to the general assembly by February 1, 1986, on the feasibility and cost-effectiveness of establishing the programs. However, the department may apply for a waiver from the federal government to implement the comprehensive perinatal services and obstetrical access program, if the department determines the program will result in cost savings to the state and provide equivalent or improved levels of care and access for the populations the program would serve. The department may continue to seek a waiver under the authority of 1984 Iowa Acts, chapter 1310, section 3, subsection 2, unnumbered paragraph 2.

In addition, the department, the university of Iowa hospitals and clinics, representatives of health provider organizations, the state department of health, and the Iowa state association of counties shall cooperate in a study of the applicability of the state of Colorado's medically indigent program to the state of Iowa. The study shall include consideration of all potential

funding sources to defray the costs of a comprehensive perinatal services and obstetrical access program if such a program is proven to be economically feasible for the state of Iowa. The department shall present the results of the study to the chairpersons of the general assembly's human services and education appropriations subcommittees by January 15, 1986.

If the department receives approval for a program of home and community-based services pursuant to a waiver under Title XIX of the federal Social Security Act, the program shall be funded with the appropriation made by this subsection. A county shall reimburse the department for the cost of services under the program, which is not paid from federal funds, to mentally retarded or mentally ill persons with legal settlement in the county at the same percentage which the county is required to reimburse the state for mentally retarded or mentally ill persons receiving services at state institutions.

3. For medical contracts ..... \$ 1,970,000

The department shall study the reimbursement methodologies under the medical assistance program and the related systems of delivering services, with the objective of developing more equitable and less inflationary systems of delivering services and reimbursing providers for the services. The study shall include an examination of health maintenance organizations, preferred provider organizations, and other forms of capitation payments.

The department shall study new reimbursement methodologies under the medical assistance program which would establish a differential payment system for heavy care residents of intermediate care facilities. The department shall develop a heavy care reimbursement methodology for implementation by July 1, 1986.

4. For child support recoveries, including salary and support of not more than one hundred eight full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 1,000,000

The commissioner of human services, within the limitations of the funds appropriated in this subsection or funds transferred from the aid to families with dependent children program for this purpose, may establish new positions and add additional employees to the child support recovery unit when the commissioner determines that both the current and additional employees together can reasonably be expected to recover for the aid to families with dependent children program and the nonpublic assistance support recovery program more than twice the amount of money required to pay the salaries and support for both the current and additional employees. The department shall demonstrate the cost effectiveness of the current and additional employees by reporting to the human services appropriations subcommittee the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recoveries.

5. For state supplementary assistance, including state supplementary assistance for the blind ..... \$ 9,850,000

6. For aid to Indians under section 252.43 ..... \$ 37,000

The tribal council shall not use more than ten percent of the funds for administrative expenses.

7. For home-based services ..... \$ 5,350,000

a. Of the funds appropriated by this subsection, seven hundred three thousand (703,000) dollars, or so much thereof as is necessary, is allocated for subsidized adoptions, including the purchase of services for severely handicapped children and children in large sibling groups.

b. Of the funds appropriated by this subsection, two hundred thousand (200,000) dollars, or so much thereof as is necessary, is allocated for family planning.

c. Of the funds appropriated by this subsection, four million four hundred forty-seven thousand (4,447,000) dollars, or so much thereof as is necessary, is allocated for family centered services.

8. For foster care ..... \$ 25,250,000

a. The department may transfer a portion of the funds appropriated by this subsection for use in providing subsidized adoption services, if funds allocated under subsection 7 are insufficient to provide necessary subsidized adoption services.

b. No more than thirty-five percent of all children in foster care funded under Title IV, part E of the federal Social Security Act shall be in foster care for more than twenty-four months.

c. Of the funds appropriated by this subsection, thirty-six thousand (36,000) dollars, or so much thereof as is necessary, is allocated for foster parent training.

9. For community-based programs ..... \$ 2,485,000

a. Of the funds appropriated by this subsection, one hundred twenty-five thousand (125,000) dollars, or so much thereof as is necessary, is allocated for displaced homemakers.

b. Of the funds appropriated by this subsection, four hundred fifty thousand (450,000) dollars, or so much thereof as is necessary, is allocated for child care center financial assistance.

Notwithstanding section 237A.13, subsection 4, funds unencumbered as of April 30, 1986, shall not be reallocated unless the unencumbered funds reclaimed exceed two thousand dollars.

c. Of the funds appropriated by this subsection, one hundred eighty thousand (180,000) dollars, or so much thereof as is necessary, is allocated for the child abuse prevention grant program.

d. Of the funds appropriated by this subsection, one hundred twenty-five thousand (125,000) dollars, or so much thereof as is necessary is allocated for domestic abuse program grants.

e. The commissioner of human services shall pay from funds appropriated by this subsection, as the entitled aid from the state under section 232.142, subsection 4, one half of one percent of the total cost of the establishment, improvements, operation, and maintenance of approved county or multicounty juvenile homes.

f. Of the funds appropriated by this subsection, two hundred fifty-five thousand (255,000) dollars, or so much thereof as is necessary, is allocated for community-based juvenile services. These funds shall be used to reduce the need for long-term juvenile institutional and group foster care placements, and to encourage home-based treatment programs as alternatives to juvenile institutional care and group foster care. The department shall only approve grants for residential community-based services when such projects are designed to directly reduce the state juvenile institutional population or the number of children being placed in group foster care outside the state.

g. Of the funds appropriated by this subsection, five hundred twenty thousand (520,000) dollars, or so much thereof as is necessary, is allocated for state cases.

h. Of the funds appropriated by this subsection, eight hundred twenty thousand (820,000) dollars, or so much thereof as is necessary, is allocated for protective day care.

10. For county-based juvenile justice reimbursement under section 232.141, subsection 4 ..... \$ 2,400,000

Sec. 4. **ADDITIONAL CHILD AND DOMESTIC ABUSE GRANT APPROPRIATIONS.** In addition to the funds appropriated by section 3, subsection 9 of this Act, there is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, for child abuse prevention grants, and one hundred thousand (100,000) dollars, or so much thereof as is necessary, for domestic abuse program grants. In addition to the funds appropriated and the full-time equivalent positions authorized by section 2, subsection 1 of this Act, there is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, one hundred thousand (100,000) dollars, or so much thereof as is necessary, for additional protective service workers. However, appropriation of the additional amounts for child abuse prevention grants and additional protective service workers is contingent upon enactment of 1985 Iowa Acts, House File 451, or other legislation imposing a fee of at least ten dollars for the registration of a certificate of birth. Appropriation of the additional amount for domestic abuse program grants is contingent upon enactment of 1985 Iowa Acts, House File 549, or other legislation imposing a fee of at least fifteen dollars for entering a final decree of dissolution of marriage.

Sec. 5. **JUVENILE AND VETERANS INSTITUTIONS.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. For the operation of the state training school and the Iowa juvenile home, including salaries and support of not more than two hundred six and one-half full-time equivalent positions at the state training school and of not more than one hundred eighteen full-time equivalent positions at the Iowa juvenile home, maintenance, and miscellaneous purposes ..... \$ 8,080,000

Within the limitation of funds appropriated by this subsection, the department shall establish at the state training school and the Iowa juvenile home a chemical dependency program in cooperation with existing community programs.

One full-time equivalent position shall be established at the Iowa juvenile home to provide career education to meet the needs of older delinquent females.

2. For operation of the Iowa veterans home, including salaries and support of not more than seven hundred seventy-five full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 19,330,000

With the funds appropriated by this subsection, and in addition to the seven hundred seventy-five full-time equivalent positions authorized as of July 1, 1985 by this subsection, the department may create and staff thirty-three full-time equivalent positions after January 1, 1986 in a unit to care for residents with Alzheimer's disease.

The department may use the gifts accepted by the commissioner of human services pursuant to section 218.96 and other resources available to the department for use at the Iowa veterans home for purposes identified by the department.

Sec. 6. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services, for the state mental health institutes, the following amount, or so much thereof as is necessary:

1985-1986  
Fiscal Year

1. For salaries and support, of not more than four hundred thirty-seven and three-tenths full-time equivalent positions annually at Cherokee, not more than two hundred eleven and eighty-five hundredths full-time equivalent positions annually at Clarinda, not more than four hundred forty-three and one-half full-time equivalent positions annually at Independence, and not more than two hundred twenty and fifty-three hundredths full-time equivalent positions annually at Mount Pleasant, maintenance, and miscellaneous purposes ..... \$ 33,100,000

2. All funds received from client participation shall be deposited in the general fund of the state.

3. The superintendents of the state mental health institutes at Cherokee and Independence, in discharging the duties imposed by section 230.20, shall not include the costs of the psychiatric residency and chaplain intern programs maintained at those institutes in computing the institutes' respective daily charges to patients.

4. A state mental health institute shall not accept physical custody of a child alleged to be a child in need of assistance, on guest status or otherwise, for more than thirty days. A child found to be a child in need of assistance shall not be placed in a state mental health institute or other appropriate secure facility unless the juvenile court finds that the standard for voluntary admission or involuntary commitment in chapter 229 has been met. The finding may be made by the court under section 232.103 at any time prior to the expiration of a dispositional order.

5. The department shall pursue all reasonable courses of action necessary to expand the recruitment and retention of psychiatrists at the state mental health institutions. The department shall aggressively recruit psychiatrists, when necessary by sending department representatives to events and locations where psychiatrists are likely to be recruited and by taking other similar actions which have the likelihood of contributing to the recruitment of psychiatrists. The department shall continue to explore and implement, if necessary, alternative approaches to retaining psychiatrists in the state hospital system, such as special contractual arrangements, expanded staff privileges, or improved educational opportunities for the medical staff.

6. As long as there is a demonstrated need, the department of human services shall continue to operate a geriatric program at the state mental health institute at Mount Pleasant. A reduction in the patient population at the institute necessary as a result of the correctional addition at the institute shall not be achieved by eliminating a specific program, unless the institute's citizens' advisory board or the general assembly determines that there is no longer a demonstrable need for the specific program. If the department decides to reduce the catchment area for Mount Pleasant mental health institute, they shall consider the reduction temporary until further population trends are clarified.

Sec. 7. HOSPITAL-SCHOOLS. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services, for the state hospital-schools, the following amount, or so much thereof as is necessary:

1985-1986  
Fiscal Year

1. For salaries and support, of not more than one thousand two hundred sixty and seven-tenths full-time equivalent positions annually at Glenwood and not more than one thousand fifty-six and sixty-two hundredths full-time equivalent positions at Woodward, maintenance, and miscellaneous purposes ..... \$ 50,000,000

2. All funds received from client participation shall be deposited in the general fund of the state.

3. The state hospital-schools' per-patient-per-day cost as determined pursuant to section 222.73 shall be billed at eighty percent for the fiscal year, except as otherwise provided by subsection 4.

4. If more than twenty percent of the cost of a patient's care is initially paid from any source other than state-appropriated funds, the amount so paid shall be subtracted from the per-patient-per-day cost of that patient's care computed pursuant to section 222.73 and the patient's county of legal settlement shall be billed for the full balance of the cost so computed.

5. In the calculation of per diem rates, charges assessed to the county shall be credited with one hundred percent of client participation for eligible medical assistance patients at the state hospital-schools.

Sec. 8. MENTAL HEALTH AND RETARDATION SERVICES FUND. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the state community mental health and mental retardation services fund established in section 225C.7, the following amount, or so much thereof as is necessary:

1985-1986  
Fiscal Year  
\$ 3,500,000

Sec. 9. BLOCK GRANT SUPPLEMENTATION. There is appropriated from the general fund of this state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the department of human services for supplementation of federal social services block grant funds and for allocation to the various counties for the purchase of local services and child day care services for eligible individuals, the following amount, or so much thereof as is necessary:

1985-1986  
Fiscal Year  
\$ 3,340,000

The funds appropriated by this section shall be allocated to the counties pursuant to the rules of the department in effect on January 1, 1985. The department shall increase the income guidelines for income eligible persons receiving services funded with federal social services block grant funds for the fiscal year beginning July 1, 1985 by the same percentage and at the same time as federal social security benefits are increased due to a recognized increase in the cost of living.

Of the funds appropriated by this section, two million nine hundred forty thousand (2,940,000) dollars shall be earmarked for the purchase of local services and four hundred thousand (400,000) dollars shall be earmarked for child day care services.

In determining income eligibility for purchase of local services, the department shall disregard one third of the income of a disabled survivor who is a recipient of child's insurance benefits under the federal old-age, survivors, and disability insurance program established under Title II of the federal Social Security Act.

A county may use up to four percent of the federal social services block grant funds and the state purchase of local services funds for the purchase of child day care services without matching the federal and state funds with local funds.

The department shall not require counties to match the state child day care services funds with local funds but shall require that the counties allocate local funds for child day care services in an amount at least equal to the county expenditures for child day care services in the fiscal year ending June 30, 1983. The department shall reallocate state child day care services funds from counties which do not qualify for or do not utilize the funds to counties which do qualify for the funds.

If the department determines that funds earmarked under this section for child day care services will not be fully expended, the department may increase the income guidelines in order to provide for the expenditure of all funds earmarked under this section for child day care services.

#### Sec. 10. REIMBURSEMENT RATES.

1. Except as provided in paragraphs "a" and "b" and except for medical assistance services provided to recipients in state mental health institutes and the veterans home, intermediate care facilities services for the mentally retarded, and the material costs of products which are reimbursed at the acquisition cost, the reimbursement and per diem rates for medical assistance providers for the fiscal year beginning July 1, 1985 shall be limited to the reimbursement and per diem rates for the providers in effect on June 30, 1985.

a. Beginning January 1, 1986, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be no higher than the fifty-fifth percentile of all facility per diems as calculated from the December 31, 1985, unaudited compilation of financial and statistical reports.

b. Medical assistance payments for all mandatory and optional services, except for hospital services, physician services, intermediate care facility services, intermediate care facility services for the mentally retarded, services provided to recipients in state mental health institutes, rural health clinics, medical transportation services other than ambulance services, and the material costs of products which are reimbursed at the acquisition cost, shall be reduced by a factor of two and one-half percent.

2. Except for licensed or approved group foster care facilities and juvenile shelter care facilities, for the fiscal year beginning July 1, 1985, the reimbursement rates for the providers of the following social services shall be increased by one percent over their reimbursement rates in effect on June 30, 1985: subsidized adoptions, family planning, family centered services, foster family homes, state cases, protective day care, purchase of local services, and child day care services. The department shall follow its regular rate setting procedures in calculating the providers' reimbursement rates, except that the reimbursement rates for foster family homes and subsidized adoptions shall be increased on the average in such a manner as to increase the reimbursements to all foster family age categories by the same dollar amount.

Effective July 1, 1985, reimbursement rates for licensed or approved group foster care facilities and juvenile shelter care facilities shall be limited to a two percent increase over their rates in effect on June 30, 1985. However, no such facility shall be reimbursed in excess of sixty-six dollars and fifteen cents per day. The department shall follow its regular rate setting procedures in calculating a facility's rate.

3. Effective July 1, 1985, reimbursement rates for residential care facilities which participate in the state supplemental assistance program and utilize the cost related reimbursement system, shall be limited to a two percent increase over their rates in effect on June 30, 1985. However, no such facility shall be reimbursed in excess of seventeen dollars and twenty-eight cents per day. The department shall follow its regular rate setting procedures in calculating a facility's rate.

**Sec. 11. PURCHASE OF SERVICE CONTRACTS.**

1. The department shall adopt rules pursuant to chapter 17A establishing policies and procedures to govern the use of requests for proposals as a tool for the selection of providers under purchase of service contracts.

2. The department may develop and implement a pilot project establishing a prospective payment system for purchase of service providers in no more than two departmental districts.

**Sec. 12. EMPLOYEE DAMAGE REIMBURSEMENTS.** Notwithstanding the dollar limitation in section 217.23, subsection 2, the department may reimburse an employee under that section an amount up to one hundred fifty dollars for each item damaged or destroyed.

**Sec. 13. INVOLUNTARY TRANSFERS.** If a skilled nursing facility or an intermediate care facility receives payments under Title XIX of the federal Social Security Act for one or more patients in the facility, the facility shall not involuntarily transfer any patient to another facility if that patient had previously been receiving medical assistance under chapter 249A for care in the facility and has been disqualified for that medical assistance because of an increase in income, but agrees to pay all of the patient's income and resources not exempt under guidelines in Title XIX of the federal Social Security Act for continued care in the facility and that payment equals or exceeds the medical assistance reimbursement rate for the particular facility.

**Sec. 14. SEVERELY DISABLED POPULATION STUDY.** The department shall study, in consultation with all relevant state agencies and with organizations representing the severely disabled population, and with the assistance of state agencies currently serving the severely disabled population, the feasibility of establishing a central registry or information system relating to the severely disabled population in need of services. The study shall address data collection, data usage, and confidentiality of data, and shall include a review of alternative strategies for establishing and implementing a central registry or information system and estimate of the costs of the alternative strategies. The department shall report the results of the study to the general assembly by January 1, 1986.

**Sec. 15. RULES.** The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", relating to subsidized adoption services in section 3, subsection 7, paragraph "a" of this Act, county-based juvenile justice reimbursements in section 3, subsection 10 of this Act, supplementation of federal social services block grant funds in section 9 of this Act, and reimbursements in section 10 of this Act, and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

**Sec. 16. MATERNAL AND CHILD HEALTH FUNDING.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the state department of health for use by the personal and family health division to



expand the geographical coverage of maternal health centers and child health centers statewide, the following amount, or so much thereof as is necessary:

	1985-1986
	<u>Fiscal Year</u>
	\$ 375,000

Sec. 17. FOSTER CARE REVIEW BOARD. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the foster care review board, the following amount, or so much thereof as is necessary:

	1985-1986
	<u>Fiscal Year</u>

For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes . . . . . \$ 136,065

Sec. 18. COMMISSION ON CHILDREN, YOUTH, AND FAMILIES. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, to the commission on children, youth, and families, the following amount, or so much thereof as is necessary:

	1985-1986
	<u>Fiscal Year</u>

For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes . . . . . \$ 98,002

Sec. 19. FEDERAL RECEIPTS. All federal grants to and the federal receipts of the department of human services, the foster care review board, and the commission on children, youth, and families are appropriated for the purposes set forth in the federal grants or receipts. The veterans per diem payable for veterans at the veterans home and funds received under Title XIX of the federal Social Security Act by the state mental health institutes and state hospital-schools shall be deposited in the general fund.

Sec. 20. CAPITAL EXPENDITURES EXCLUDED. Funds appropriated by this Act shall not be used for capital acquisitions or improvements.

Sec. 21. The amount of the funds appropriated under this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provision of this Act.

Sec. 22. Total appropriations specified in this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceeds four and one-half percent.

Approved May 3, 1985

**CHAPTER 260**  
**APPROPRIATIONS TO AGRICULTURAL, ENERGY**  
**AND NATURAL RESOURCES AGENCIES**  
*H.F. 476*

**AN ACT** relating to and making appropriations to various departments, boards, agencies, and commissions of the state relating to agricultural affairs, energy, and natural resources management.

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

Section 1. DEPARTMENT OF AGRICULTURE. There is appropriated from the general fund of the state and the trust funds indicated to the department of agriculture for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
<b>1. GENERAL ADMINISTRATION</b>	
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,460,076
b. From the fertilizer fund to be transferred to the administration division .....	\$ 43,296
c. From the dairy trade practice fund to be transferred to the administration division .....	\$ 73,368
d. From the commercial feed fund to be transferred to the administration division .....	\$ 43,296
e. The department of agriculture shall establish annual subscription fees for the regular and periodic publications of the department. Fees collected from subscribers shall be deposited in the general fund of the state.	
It is the intent of the general assembly that the department of agriculture continue the agricultural diversification program.	
<b>2. REGULATORY DIVISION</b>	
From the general fund for salaries, support, maintenance, and miscellaneous purposes .....	\$ 3,318,858
It is a condition of the funds appropriated by this subsection that the department of agriculture is required to inspect a food service establishment only once a year, notwithstanding the provisions of section 170A.3 requiring an inspection twice a year.	
<b>3. LABORATORY DIVISION</b>	
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes .....	\$ 632,924

b. From the commercial feed fund to be transferred to the laboratory division .....	\$	734,610
c. From the pesticide fund to be transferred to the laboratory division .....	\$	450,323
d. From the fertilizer fund to be transferred to the laboratory division .....	\$	776,305

**Sec. 2. MULTIFLORA ROSE ERADICATION COST REIMBURSEMENT.**

1. There is appropriated from the general fund of the state to the state department of agriculture for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of seventy-five thousand (75,000) dollars, or as much thereof as may be necessary, to be used for the purpose of partially reimbursing agricultural landowners or tenants for the cost of herbicide for controlling or eradicating the multiflora rose which has severely infested their agricultural land. Not more than five percent of the funds appropriated under this subsection shall be used for administrative expenses.

2. A county board of supervisors desiring a share of the appropriation shall, in conjunction with the county weed commissioner and the county soil conservation district commissioners, develop a plan to combat severe infestations of multiflora rose on privately-owned land within the county. The plan shall be based upon partial reimbursement of individual landowner's costs for the purchase of herbicide from both state and county appropriations, however the share of costs reimbursed by state funds shall not exceed one fourth. The plan shall be submitted to the secretary of agriculture for approval or recommendations for modification.

3. A landowner or tenant whose agricultural land is severely infested by multiflora roses may apply to the soil conservation district commissioners of the county for partial reimbursement, according to the approved plan, of the cost of herbicide for controlling or eradicating the multiflora rose on the agricultural land. The county weed commissioner shall assist the soil conservation district commissioners in investigating the application and determining if the infestation is severe. The soil conservation district commissioners shall review and approve each application for partial cost reimbursement if the infestation is severe on the applicant's agricultural land. If the soil conservation district commissioners find the amount of reimbursement claimed to be excessive, the district commissioners may approve a lesser amount. The reasons for disapproval of an application or reduction of the amount of reimbursement shall be sent in writing to the applicant. The amount of reimbursement certified by the secretary shall be paid by warrant issued by the state comptroller.

4. Federal lands and federal land tenants are not eligible for reimbursement under this section.

**Sec. 3. STATE CONSERVATION COMMISSION.** There is appropriated from the general fund of the state and the funds indicated to the state conservation commission and its divisions for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1985-1986  
Fiscal Year

**1. DIVISION OF LANDS AND WATERS**

For deposit in the state conservation fund from the general fund of the state for salaries, support, maintenance, equipment, and miscellaneous purposes and for maintenance of state parks, waters, and forests, and including

not more than one million five hundred forty-one thousand one hundred seventy-five (1,541,175) dollars during the fiscal year beginning July 1, 1985 which shall be available for the administration fund from the state conservation fund in compliance with the provisions of section 107.17

\$ 6,222,644

## 2. DIVISION OF FISH AND GAME

a. From the state fish and game protection fund for salaries, support, maintenance, equipment, and miscellaneous purposes including not more than two million sixty-five thousand four hundred fifteen (2,065,415) dollars during the fiscal year beginning on July 1, 1985 which shall be available from the state fish and game protection fund for the administration fund in compliance with the provisions of section 107.17

\$ 13,211,122

b. From the fees deposited under section 321G.7 to the fish and game protection fund for enforcement of snowmobile laws as part of the state snowmobile program

\$ 67,000

c. From the fees deposited under section 106.52 to the fish and game protection fund for administration and enforcement of navigation laws and water safety

\$ 905,600

d. Funds remaining in the fish and game protection fund during fiscal year 1985-1986 which are not specifically appropriated by section 3 of this Act are appropriated and may be used for capital projects and contingencies arising during the fiscal year beginning July 1, 1985. A contingency shall not include any purpose or project which was presented to the general assembly by way of a bill or a proposed bill and which failed to be enacted into law. For the purpose of this subsection, a necessity of additional operating funds may be construed as a contingency. Before any of the funds authorized to be expended by this subsection are allocated for contingencies, it shall be determined by the executive council that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests of the state. If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

## 3. STATE ADVISORY BOARD FOR PRESERVES

From the general fund of the state for salaries, support, maintenance, and miscellaneous purposes for carrying out the duties of the board

\$ 51,484

## 4. GREEN THUMB PROGRAM

From the general fund for deposit in the green thumb fund for the employment of persons under the green thumb program established pursuant to chapter 601H

\$ 145,742

Sec. 4. MARINE FUEL TAX FUND. There is appropriated from the marine fuel tax fund to the state conservation commission and its divisions for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used for the following purposes:

	1985-1986 Fiscal Year
1. For deposit in the state conservation fund for maintenance and development of boating facilities and access to public waters .....	\$ 364,730
2. For deposit in the state fish and game protection fund for the administration and enforcement of navigation laws and boat safety .....	\$ 100,000

The balance of the amount computed as provided in section 324.84 for the fiscal year beginning July 1, 1985 and ending June 30, 1986 is appropriated for the purposes provided in section 324.79, subsections 1, 2, 3 and 5. The unencumbered or unobligated balances of funds specifically allocated for such projects for the fiscal year ending June 30, 1986, shall revert to the fund from which appropriated June 30, 1988.

Sec. 5. ADMINISTRATION FUND.

1. The transfer of funds from the state conservation fund and the state fish and game protection fund to the administration funds shall not exceed the amounts specified in subsections 1 and 2 of section 3 of this Act.

2. All receipts and refunds and reimbursements related to activities funded by the administration fund are appropriated to the administration fund. All refunds and reimbursements relating to activities of the state fish and game protection fund shall be credited to the state fish and game protection fund.

3. The state conservation commission shall establish a priority list of watersheds above publicly-owned lakes and areas within those watersheds which are of highest importance based on soil loss to be used for the allocation of funds set aside in subsection 3 of section 11 of this Act for permanent soil conservation practices on watersheds above publicly-owned lakes.

Sec. 6. OPEN SPACES SCHOOL TAX PAYMENT. There is appropriated from the general fund of the state to the state conservation commission the amount of forty-one thousand one hundred sixty (41,160) dollars to pay school taxes for the fiscal year beginning July 1, 1985 on the lands acquired under the open spaces acquisition program, commenced in Acts of the Sixty-fifth General Assembly, 1973 Session, chapter 74, which would otherwise be subject to the levy of school taxes. The assessed value of the open spaces land shall be that determined pursuant to section 427.1, subsection 31, and the commission may protest the assessed value in the manner provided by law for any property owner to protest an assessment. For the purposes of chapter 442, the assessed value of the open spaces land shall be included in the valuation base of the school district and the payments made pursuant to this section shall be considered as property tax revenues and not as miscellaneous income. The county treasurer shall certify the taxes due to the commission. If the total amount of taxes due certified to the commission exceeds the amount appropriated, the taxes due shall be reduced proportionately so that the total amount equals the amount appropriated.

Sec. 7. ENERGY POLICY COUNCIL. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the energy policy council the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1985-1986</u> <u>Fiscal Year</u>
<b>ENERGY POLICY COUNCIL</b>	
<b>1. OPERATIONS</b>	
For salaries, support, maintenance, and for miscellaneous purposes .....	\$ 373,500
<b>2. INSTITUTIONAL CONSERVATION PROGRAM</b>	
For salaries, support, maintenance, and for miscellaneous purposes .....	\$ 98,054
<b>3. STATE BUILDINGS ENERGY MANAGEMENT PROGRAM</b>	
For salaries, support, maintenance, and for miscellaneous purposes .....	\$ 450,000

By January 2, 1986 the energy policy council shall file with the chief clerk of the house of representatives and the secretary of the senate a report of the expenditures made under the institutional conservation program and the state buildings energy management program during the fiscal year beginning July 1, 1983 and ending June 30, 1984 and the energy savings realized by virtue of those expenditures during that fiscal year.

Sec. 8. **GEOLOGICAL SURVEY.** There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the Iowa geological survey the amounts specified, or so much thereof as is necessary, to be used for the following purposes:

	<u>1985-1986</u> <u>Fiscal Year</u>
1. For salaries, support, maintenance, and for miscellaneous purposes for the general office .....	\$ 1,217,663
2. For reimbursement to federal agencies for cooperative contracts .....	\$ 257,576

Sec. 9. **HERBERT HOOVER BIRTHPLACE FOUNDATION.** There is appropriated from the general fund of the state to the Herbert Hoover birthplace foundation for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amount, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1985-1986</u> <u>Fiscal Year</u>
For assistance with capital improvements .....	\$ 1,350

Sec. 10. **MISSISSIPPI RIVER PARKWAY COMMISSION.** There is appropriated from the general fund of the state to the Mississippi river parkway commission for the fiscal year beginning July 1, 1985 and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	<u>1985-1986</u> <u>Fiscal Year</u>
For support, maintenance, and miscellaneous purposes .....	\$ 15,702

Sec. 11. **DEPARTMENT OF SOIL CONSERVATION.** There is appropriated from the general fund of the state to the department of soil conservation for the fiscal year beginning

July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986 Fiscal Year
1. For salaries, support, maintenance, assistance to soil conservation districts, and for miscellaneous purposes .....	\$ 3,854,553
It is the intent of the general assembly that if full-time equivalent positions must be reduced, the department shall first consider staff reductions in the central office.	
2. For soil conservation grants which shall be allocated by the state soil conservation committee as follows:	
a. To conduct soil surveys in conjunction with federal, state, and local agencies in Iowa .....	\$ 328,633
b. To finance the state share of the small watershed program known as the Pub. L. 566 program .....	\$ 23,814
c. For transfer to the conservation practices revolving loan fund .....	\$ 100,000
d. To provide financial incentives for soil conservation practices in accordance with the provisions of subsection 3 of this section .....	\$ 8,978,521

3. The following requirements apply to the funds appropriated by subsection 2, paragraph "d":

a. Not more than five percent may be allocated for cost sharing to abate complaints filed under sections 467A.47 and 467A.48.

b. Not more than ten percent may be allocated for financial incentives not exceeding seventy-five percent of the approved cost of permanent soil conservation practices under chapter 467A on watersheds above publicly-owned lakes in accordance with the priority list required in subsection 3 of section 5 of this Act.

c. The committee may allocate funds to conduct research and demonstration projects to promote conservation tillage and nonpoint sources pollution control practices.

d. Not more than ten percent of a district's allocation may be allocated by the soil conservation district commissioners for one-time incentive payments on the per acre basis, but not exceeding ten dollars per acre, to encourage no-till planting methods on Iowa land that is row cropped.

e. Except for the allocation subject to paragraphs "a" and "b", the financial incentives for voluntary permanent soil conservation practices shall not exceed fifty percent of the approved cost and priority shall be given to family-operated farms.

f. Not more than twenty thousand (20,000) dollars may be used for reimbursement of out-of-pocket expenses of fencing authorized by House File 266 if enacted by the Seventy-first General Assembly, 1985 Session.

g. The financial incentive payments may be used in combination with state conservation commission funds.

4. The provisions of section 8.33 shall not apply to the funds appropriated by subsection 2. Unencumbered or unobligated funds remaining on June 30, 1989 from funds appropriated for the fiscal year beginning July 1, 1985 shall revert to the general fund on September 30, 1989.

Sec. 12. DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the department of water, air and waste management the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1985-1986 Fiscal Year
1. For salaries, support, maintenance, and for miscellaneous purposes .....	\$ 2,652,978
2. For salaries, support, maintenance and for miscellaneous purposes for the river coordinator .....	\$ 41,106
3. For the state's contribution to the AIDEX superfund .....	\$ 250,000

Notwithstanding section 8.33 funds appropriated for the state's contribution to the AIDEX superfund by 1984 Iowa Acts, chapter 1303, section 18, subsection 3, which are unexpended or unencumbered shall carry forward into the 1985-1986 fiscal year for the same purpose as originally appropriated. During the fiscal year for which funds are appropriated by this section the department of water, air and waste management shall not require the installation or use of equipment to control the emission of dust or other particulate matter on facilities for the storage of grain which are located within the ambient air quality attainment areas for suspended particulates.

4. For payments to the governing bodies responsible for publicly-owned sewage treatment facilities which are eligible for grants under section 202 of the federal Water Pollution Control Act, 33 U.S.C. 466 et seq., as amended by the federal Clean Water Act of 1977, Pub. L. 95-217, in an amount equal to five percent of the amount approved as the eligible cost of the project by the water, air and waste management commission .....	\$ 1,960,000
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Notwithstanding the provisions of unnumbered paragraph 1, of this subsection, not more than ten thousand (10,000) dollars of the funds appropriated by this subsection may be used for payments to governing bodies of local governments to reimburse up to fifty percent of expenses incurred since January 1, 1985 for alternative solid waste disposal projects.

The provisions of section 8.33 shall not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, 1989 from funds appropriated for the fiscal year beginning July 1, 1985, shall revert to the general fund on September 30, 1989.

5. It is the intention of the general assembly in adopting the appropriation under subsection 1 and this subsection to cease funding for the department's implementation of the federal Resource Conservation and Recovery Act permit program for hazardous waste facilities in this state. Section 455B.411, subsections 5, 8 and 9, section 455B.412, subsections 2 through 4, and sections 455B.413 through 455B.421 are suspended and do not apply as they pertain to that permit program, but are not suspended and do apply as they pertain to abandoned and uncontrolled sites, used oil and site licensing under chapter 455B, division IV, part 6. The suspension provided by this subsection begins July 1, 1985 and ends July 1, 1987.



Sec. 13. There is appropriated from the general fund of the state to the Iowa state water resources research institute for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of one hundred thirty-five thousand (135,000) dollars, or so much thereof as is necessary, for research approved by the panel created in 1984 Iowa Acts, chapter 1303, section 20.

Sec. 14. The amount of the funds appropriated under section 1, subsection 1, paragraph "a", subsection 2, and subsection 3, paragraph "a" of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

The amount of the funds appropriated under section 3, subsection 1, and subsections 3 and 4 of this Act for the fiscal year beginning on July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

The amount of the funds appropriated under sections 2, 6, 7, 8, 9, 10, 11, 12, and 13 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

Sec. 15. Total appropriations specified in this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceeds four and one-half percent.

Sec. 16. All federal grants to and the federal receipts, not otherwise appropriated, of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts, unless otherwise provided by the general assembly.

Approved May 3, 1985

**CHAPTER 261****APPROPRIATIONS FOR DESIGNATED SERVICE PROGRAMS***H.F. 571*

**AN ACT** relating to the funding of state agencies for designated service programs including health programs, civil rights, citizens' aide, women, veterans' services, vocational rehabilitation, substance abuse, and programs for minority, elderly, and disadvantaged persons for the fiscal year beginning July 1, 1985 and ending June 30, 1986.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985, and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used by the following agencies for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
<b>1. COMMISSION ON THE AGING</b>	
a. For salaries and support of not more than twenty-nine and five-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 260,117
b. For the administration of area agencies on aging .....	\$ 120,023
c. For the senior citizen employment program .....	\$ 110,166
d. For the older Iowans legislature .....	\$ 13,608
e. For elderly services programs .....	\$ 816,480
All funds appropriated under this paragraph shall be received and disbursed by the commission in accordance with sections 249B.15 through 249B.21, shall not be used for administrative purposes, and shall be used for citizens of Iowa over sixty-five years of age for chore, telephone reassurance, adult day care, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which meet the requirements of section 104A.4 and make residences accessible to the physically handicapped. Funds appropriated under this paragraph may be used to supplement federal funds under federal regulations.	
<b>2. IOWA COMMISSION FOR THE BLIND</b>	
For salaries and support of not more than one hundred five and three-one hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 1,080,534
<b>3.* OFFICE OF CITIZENS' AIDE</b>	
For salaries and support of not more than eight and three-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....	\$ 244,715

\*See ch 65, §11

4. IOWA STATE CIVIL RIGHTS  
COMMISSION

For salaries and support of not more than twenty-five full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 776,260

5. SPANISH-SPEAKING PEOPLES  
COMMISSION

For salaries and support of not more than one full-time equivalent position annually, maintenance, and miscellaneous purposes .....

\$ 45,506

6. COMMITTEE ON EMPLOYMENT OF  
THE HANDICAPPED

For salaries and support of not more than four full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 128,051

7. COMMISSION ON THE STATUS OF  
WOMEN

For salaries and support of not more than three full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 98,685

8. VOCATIONAL REHABILITATION  
DIVISION OF THE DEPARTMENT OF  
PUBLIC INSTRUCTION

For salaries and support of not more than three hundred twenty-six and five-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 2,723,317

Sec. 2. There is appropriated from the general fund of the state to the state department of health for the fiscal year beginning July 1, 1985, and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. CENTRAL ADMINISTRATION  
DIVISION

For salaries and support of not more than sixty-four and three-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 940,503

2. HEALTH FACILITIES DIVISION

For salaries and support of not more than fifty-five full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 728,895

Notwithstanding Division VII of chapter 135, the department of health shall not begin the hospice licensure procedure until July 1, 1987.

### 3. HEALTH PLANNING AND DEVELOPMENT DIVISION

For salaries and support of not more than sixteen and seventy-five hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 255,951

### 4. DISEASE PREVENTION DIVISION

For salaries and support of not more than fifty-six and six-tenths full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 1,197,589

### 5. PROFESSIONAL LICENSURE

For salaries and support of not more than seventeen full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 604,108

Professional licensure shall prepare estimates of projected receipts to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected receipts equal projected costs.

### 6. PERSONAL AND FAMILY HEALTH DIVISION

a. For salaries and support of not more than fifty full-time equivalent positions annually, maintenance, and miscellaneous purposes

\$ 1,311,431

The department shall allocate from the funds appropriated under this paragraph at least six hundred nine thousand seven hundred sixty-seven (609,767) dollars for the fiscal year beginning July 1, 1985, and ending June 30, 1986, for the birth defects and genetics counseling program and of these funds, forty thousand (40,000) dollars shall be allocated for a central Iowa birth defects registry pilot program.

Of the funds appropriated in this paragraph, the following amounts shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for the following programs under the Iowa specialized child health care services:

(1) Mobile and regional child health specialty clinics

\$ 324,000

(2) Muscular dystrophy and related genetic disease programs

\$ 131,657

(3) Statewide perinatal program

\$ 43,740

The birth defects and genetic counseling service shall apply a sliding fee scale to determine the amount a person receiving the services is required to pay for the services. These fees shall be considered repayment receipts and used for the program.

Of the funds allocated to the mobile and regional child health specialty clinics under subparagraph one of this paragraph, seventy-two thousand (72,000) dollars shall be used for a specialized medical home care program providing care planning and coordination of community support services for children who require technical medical care in the home.

The university of Iowa hospitals and clinics shall receive an allocation for indirect costs of no more than eight percent from the funds for each program.

b. Sexual abuse investigations.

For medical procedures required by section

709.10 ..... \$ 57,795

c. Sudden infant death syndrome autopsies.

For reimbursing counties for expenses resulting from autopsies of suspected victims of sudden infant death syndrome required under section 331.802, subsection 3, paragraph "j" .....

\$ 15,000

7. COMMUNITY HEALTH DIVISION

a. For salaries and support of not more than thirty-eight and twenty-five hundredths full-time equivalent positions annually, maintenance, and miscellaneous purposes .....

\$ 1,841,897

The department shall allocate from the funds appropriated under this lettered paragraph nine hundred forty thousand nine hundred sixteen (940,916) dollars for the fiscal year beginning July 1, 1985, for the chronic renal disease program. The types of assistance to eligible recipients under the program may include hospital and medical expenses, home dialysis supplies, insurance premiums, travel expenses, prescription and nonprescription drugs, and lodging expenses for persons in training. The program expenditures shall not exceed these allocations. If projected expenditures will exceed the allocations, the department shall establish by administrative rule a mechanism to reduce financial assistance under the renal disease program in order to keep expenditures within the allocations.

b. For grants to local boards of health for

the public health nursing program ..... \$ 2,207,472

Funds appropriated under this paragraph shall be used to maintain and expand the existing public health nursing program for elderly and low-income persons with the objective of preventing or reducing inappropriate institutionalization. The funds shall not be used for any other purpose. As used in this paragraph, "elderly person" means a person who is sixty years of age or older and "low-income person" means a person whose income and resources are below the guidelines established by the department.

One fourth of the total amount to be allocated shall be divided so that an equal amount is available for use in each county in the state. Three fourths of the total amount to be allocated shall be divided so that the share available for use in each county is proportionate to the number of elderly and low-income persons living in that county in relation to the total number of elderly and low-income persons living in the state.

In order to receive allocations under this paragraph, the local board of health having jurisdiction shall prepare a proposal for the use of the allocated funds available for that jurisdiction that will provide the maximum benefits of expanded public health nursing care to elderly and low-income persons in the jurisdiction. After approval of the proposal by the department, the department shall enter into a contract with the local board of health. The local board of health shall subcontract with a nonprofit nurses' association, an independent nonprofit agency, or a suitable local governmental body to use the allocated funds to provide public health nursing care. Local boards of health shall make an effort to subcontract with agencies that are currently providing services to prevent duplication of services.

If by July 30 of each year of the biennium, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds appropriated under this paragraph an unallocated pool. If the unallocated pool is fifty thousand

dollars or more it shall be reallocated to the counties in substantially the same manner as the original allocations. The reallocated funds are available for use in those counties during the period beginning January 1 and ending June 30 of each fiscal year of the biennium. If the unallocated pool is less than fifty thousand dollars, the department may allocate it to counties with demonstrated special needs for public health nursing.

The department shall maintain rules governing the expenditure of funds appropriated by paragraph "b". The rules require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the care.

The department shall annually evaluate the success of the public health nursing program. The evaluation shall include the extent to which the program reduced or prevented inappropriate institutionalization, the extent to which the program increased the availability of public health nursing care to elderly and low-income persons, and the extent of public health nursing care provided to elderly and low-income persons. The department shall submit a report of each annual evaluation to the governor and the general assembly.

c. For grants to county boards of supervisors for the homemaker-home health aide

program ..... \$ 7,389,200

Funds appropriated under this paragraph shall be used to provide homemaker-home health aide services with emphasis on services to elderly and low-income persons and children and adults in need of protective services with the objective of preventing or reducing inappropriate institutionalization. In addition, up to fifteen percent of the funds appropriated under this paragraph may be used to provide chore services. The funds shall not be used for any other purposes. As used in this paragraph:

(1) "Chore services" means services provided to individuals or families, who, due to absence, incapacity, or illness, are unable to perform certain home maintenance functions. The services include but are not limited to yard work such as mowing lawns, raking leaves, and shoveling walks; window and door maintenance such as hanging screen windows and doors, replacing window panes, and washing windows; and minor repairs to walls, floors, stairs, railings, and handles. It also includes heavy house cleaning which includes cleaning attics or basements to remove fire hazards, moving heavy furniture, extensive wall washing, floor care or painting, and trash removal.

(2) "Elderly person" means a person who is sixty years of age or older.

(3) "Homemaker-home health aide services" means services intended to enhance the capacity of household members to attain or maintain the independence of the household members and provided by trained and supervised workers to individuals or families, who, due to the absence, incapacity, or limitations of the usual homemaker, are experiencing stress or crisis. The services include but are not limited to essential shopping, housekeeping, meal preparation, child care, respite care, money management and consumer education, family management, personal services, transportation and providing information, assistance, household management and learning experiences.

(4) "Low-income person" means a person whose income and resources are below the guidelines established by the department.

(5) "Protective services" means those homemaker-home health aide services intended to stabilize a child's or an adult's residential environment and relationships with relatives, caretakers, and other persons or household members in order to alleviate a situation involving abuse or neglect or to otherwise protect the child or adult from a threat of abuse or neglect.

(a) The department shall initiate the following allocation process unless determined unfeasible. In that event, the department shall utilize the allocation process in subparagraph (b). The amount appropriated under this paragraph shall be allocated for use in the counties of the state. Fifteen percent of the amount shall be divided so that an equal amount is available for use in each county in the state. The following percentages of the remaining amount shall be allocated to each county according to that county's proportion of residents with the following demographic characteristics compared to all state residents with the same demographic characteristics: sixty percent according to the number of elderly persons living in the county; twenty percent according to the number of low-income persons living in the county; and twenty percent according to the number of substantiated cases of child abuse in the county during the three most recent fiscal years for which data is available.

(b) In the event subparagraph (a) is determined unfeasible, the amount appropriated under this paragraph shall be allocated for use in the counties of the state. The entire amount shall be allocated based on a range determined from the formula based on subparagraph (a). However a county shall not receive less than ninety-four point seventy-eight percent nor more than one hundred three percent of the funding allocated to the county in the previous fiscal year. If a county is calculated to receive less than the determined range, the department shall increase the level of funding to the lowest level of the determined range by using no more than forty percent of the funds from counties calculated to receive more than two thousand dollars above the highest level of the determined range.

In order to receive allocations under this paragraph, the county board of supervisors, after consultation with the local boards of health, county board of social welfare, area agency on aging advisory council, local office of the department of human services, and other in-home health care provider agencies in the jurisdiction, shall prepare a proposal for the use of the allocated funds available for that jurisdiction that will provide the maximum benefits of expanded homemaker-home health aide services to elderly and low-income persons and children and adults in need of protective services in the jurisdiction. The proposal may provide that a maximum of fifteen percent of the allocated funds will be used to provide chore services. The proposal shall include a statement assuring that children and adults in need of protective services are given priority for homemaker-home health aide services and that the appropriate local agencies have participated in the formulation of the proposal. After approval of the proposal by the department, the department shall enter into a contract with the county board of supervisors or a governmental body designated by the county board of supervisors. The county board of supervisors or its designee shall subcontract with a nonprofit nurses' association, an independent nonprofit agency, the department of human services, or a suitable local governmental body to use the allocated funds to provide homemaker-home health aide services and chore services providing that the subcontract requires any service provided away from the home to be documented in a report available for review by the department.

If by July 30 of each year of the biennium, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds appropriated under this paragraph an unallocated pool. The department shall also identify any allocated funds which the counties do not anticipate spending during each fiscal year of the biennium. If the anticipated excess funds to any county are substantial, the department and the county may agree to return those excess funds, if the funds are other than program revenues, to the department, and if returned, the department shall consider the returned funds a part of the unallocated pool. The department shall prior to February 15 of each fiscal year of the biennium, reallocate the funds in the unallocated pool among the counties in which

the department has concluded contracts under this paragraph. The department shall also review the first ten months' expenditures for each county in May of each year, to determine if any counties have contracted funds which they do not anticipate spending. If such funds are identified and the county agrees to release the funds, the released funds will be considered a new reallocation pool. The department may, prior to June 1 of each year, reallocate funds from this new reallocation pool to those counties which have experienced a high utilization of protective service hours for children and dependent adults.

The department shall maintain rules governing the expenditure of funds appropriated by this paragraph. The rules require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the services and shall require the payments to be applied to the cost of the services. The department shall also maintain rules for standards regarding training, supervision, recordkeeping, appeals, program evaluation, cost analysis, and financial audits, and rules specifying reporting requirements.

The department shall annually evaluate the success of the homemaker-home health aide program. The evaluation shall include a description of the program and its implementation, the extent of local participation, the extent to which the program reduced or prevented inappropriate institutionalization, the extent to which the program provided or increased the availability of homemaker-home health aide services to elderly and low-income persons and children and adults in need of protective services, any problems and recommendations concerning the program, and an analysis of the costs of services across the state. The department shall submit a report of the annual evaluation to the governor and the general assembly.

d. For the development and maintenance of well-elderly clinics in the state ..... \$ 216,367

Sec. 3. There is appropriated from the general fund of the state to the Iowa department of veterans affairs for the fiscal year beginning July 1, 1985, and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. For salaries and support of not more than five full-time equivalent positions annually, maintenance, and miscellaneous purposes ..... \$ 114,866

2. For the war orphans educational aid fund ..... \$ 15,000

3. For a chemical exposure reporting program ..... \$ 34,593

It is the intent of the general assembly that for the fiscal year beginning July 1, 1986, and every fiscal year thereafter, this additional funding for a chemical exposure reporting program shall not be appropriated.

Sec. 4. There is appropriated from the general fund of the state to the Iowa department of substance abuse for the fiscal year beginning July 1, 1985, and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. For salaries and support of not more than twenty and five-tenths full-time equivalent positions annually funded from both state and federal funds, maintenance, and miscellaneous purposes ..... \$ 385,129



2. For program grants ..... \$ 7,348,958

Sec. 5. The licensing boards for which general fund appropriations have been provided for in section 2, subsection 5 of this Act may expend additional funds, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before a licensing board included in section 2, subsection 5 of this Act expends or encumbers an amount in excess of the funds budgeted for examinations, the state comptroller shall approve the expenditure or encumbrance. Before approval is given, the state comptroller shall determine that the examination expenses exceed the funds budgeted by the general assembly to the board and the board does not have other funds from which examination expenses can be paid. Upon approval of the state comptroller the licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 6. The amount of the funds appropriated under sections 1, 2, 3, and 4 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act. However, the funds appropriated in section 1, subsections 3, 4, and 8 and section 4 shall not be so reduced.

Sec. 7. All federal grants to and federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly. Full-time equivalent positions funded entirely with federal funds are exempt from the limits on the number of full-time equivalent positions provided in this Act, except for the department of substance abuse pursuant to section 4 of this Act, but are approved only for the period of time for which the federal funds are available for the position.

Sec. 8. Total appropriations specified in this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceeds four and one-half percent.

Approved May 3, 1985

**CHAPTER 262**  
**APPROPRIATIONS FOR CRIMINAL JUSTICE AGENCIES**  
*S.F. 552*

**AN ACT** making appropriations to and relating to the financing of departments and agencies whose responsibilities relate to corrections, public safety, and the justice system.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the department of corrections the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

For operation of adult correctional institutions, including salaries and support, maintenance, and miscellaneous purposes, provided that the director of corrections, in order to keep expenditures from exceeding the amount of funds appropriated by this section, shall declare a prison overcrowding state of emergency in the state's prisons whenever the population of the prison system exceeds two thousand six hundred forty-five inmates for sixty consecutive days. Upon the declaration of a prison overcrowding state of emergency, the board of parole shall consider all inmates, except for inmates convicted of class "A" felonies, for parole who are within nine months of their tentative discharge date. If the board of parole's actions do not reduce the population of the prison system below two thousand six hundred twenty inmates within ninety days of the date of the declaration of the prison overcrowding state of emergency, the tentative discharge dates of all inmates, whose most serious offenses for which the inmates are currently incarcerated are crimes against property and who are incarcerated in state prisons on the date of the declaration, shall be reduced by ninety days by the director of corrections. However, the tentative discharge date of a prisoner sentenced under section 204.406,

204.413, 902.7, 902.8, or 906.5 shall not be reduced under this section prior to completion of the mandatory minimum sentence required by the section. The director of corrections shall terminate a prison overcrowding state of emergency in the state's prisons whenever the population of the prison system is reduced below two thousand six hundred twenty inmates. The department shall adopt administrative rules which identify all offenses as either crimes against property or crimes against persons. As used in this section, "prison" means a correctional facility operated by the department of corrections and funded under this section, "prison system" means the prisons of this state which are the Iowa correctional institution for women, the Iowa state men's reformatory, the Iowa state penitentiary, the Iowa medical and classification facility, the north central correctional facility, the Mount Pleasant correctional facility, the Clarinda correctional treatment facility, the correctional release center, and the rehabilitation camps, and "tentative discharge date" means the date at which an inmate is scheduled for release including good conduct and work time currently received. However, offenders for whom the board of parole has authorized parole, but for whom the director has determined that inadequate parole plans have been formulated, may remain within the correctional institution for a period of ten days following parole authorization or until adequate parole plans have been developed, whichever is the shorter period of time. During this period of time, the offender shall not be included in the list of names used to determine the existence of a prison overcrowding emergency. On and after July 1, 1985, the superintendent shall not admit additional inmates to the medium security facility of the men's reformatory at Anamosa if the inmate population of the men's reformatory equals or exceeds eight hundred and fifty inmates

..... \$ 53,387,662

Of the amount appropriated in this section, one hundred three thousand one hundred five (103,105) dollars, or so much thereof as is necessary, shall be used to hire five additional staff to be used towards compliance with the Watson v. Ray federal court order.

If the department of corrections changes the allocations to the various adult correctional institutions on which the appropriation in this section was based, the department shall notify each of the members of the justice system appropriations subcommittee regarding the changes to the allocations.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the department of corrections the following amounts, or so much thereof as is necessary, for the programs as designated:

	1985-1986 <u>Fiscal Year</u>
1. For general administration, including salaries and support, maintenance, and miscellaneous purposes .....	\$ 1,786,378
2. For a legal assistance program to provide civil legal assistance to inmates in the Iowa correctional system in matters of child custody, bankruptcy, and dissolution of marriage .....	\$ 35,000
<p>The department shall determine whether an inmate applying for civil legal assistance is indigent under section 815.9, after submission by the inmate of the detailed financial statement required by that section. The inmate has an affirmative duty to provide all relevant information on the issue of the inmate's indigency to the satisfaction of the department that the inmate is indigent. The department may establish by rule a schedule of charges, on a graduated scale related to income and resources, to be paid by inmates who are not indigent for the provision of civil legal assistance.</p> <p>The department may establish by rule maximum rates of reasonable compensation for attorneys providing the various categories of civil legal assistance under the program funded by this subsection.</p>	
3. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 247A.10, 901.7, and 906.17 .....	\$ 72,000
4. For the correctional training center .....	\$ 325,000
5. For federal prison reimbursement .....	\$ 375,000

The department of corrections shall use funds appropriated in the subsection to continue to contract for the services of a Muslim imam.

Sec. 3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the department of corrections the sum of seventeen million three hundred ninety thousand (17,390,000) dollars, or so much thereof as is necessary, for preinstitutional and postconviction community-based corrections, halfway houses, and parole services.

The department of corrections shall report to the general assembly not later than January 15, 1986, relating to the department's progress toward establishing a compensation range for the staff of the district departments of correctional services pursuant to section 905.4, subsection 2.

\*Sec. 4. 1984 Iowa Acts, chapter 1306, section 2, subsection 2, unnumbered paragraph 3, is amended to read as follows:

\*Item veto; see message at end of this Act

The department, by ~~January 15~~ July 1, 1985, shall provide the general assembly with evidence from independent experts of the validity and effectiveness of the inmate classification system and shall suggest changes in the system to make it more effective. If the department fails to comply with the requirements of this paragraph, the state comptroller shall withhold one percent of the funds appropriated under section 2, subsection 1 of this Act when the funds are allocated to the department until the evidence has been presented to the general assembly. The validation study shall determine if the classification instruments accomplish the following objectives:\*

Sec. 5. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. CRIMINAL AND JUVENILE JUSTICE  
PLANNING AGENCY

For salaries, support, maintenance, and miscellaneous purposes related to the operations of the criminal and juvenile justice planning agency which is a separate independent agency within the office of the governor, under the direct supervision of the governor, and responsible only to the governor or the general assembly as provided in chapter 80C:

a. Criminal justice planning .....	\$	231,167
b. Juvenile justice planning .....	\$	55,239
c. Juvenile victim restitution program .....	\$	121,000
d. Jailer training and technical assistance .....	\$	30,769

2. DEPARTMENT OF JUSTICE

a. For the general office of attorney general for salaries, support, maintenance, and miscellaneous purposes .....

	\$	3,153,582
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b. The attorney general shall conduct a study of the tort claims division of the attorney general's office, and report the results to the general assembly on or before January 1, 1986. The report shall analyze tort claims made against the state, claims paid through settlement, claims tried and their results for the years 1980 to date.

(1) The study shall examine the effect, if any, of the change in Iowa law resulting from Goetzman v. Wichern, 327 N.W.2d 742 (1982) which eliminated the doctrine of contributory negligence and replaced it with the doctrine of pure comparative negligence.

(2) The study shall further examine and report the percentage of negligence allocated against the state in each claim tried subsequent to Goetzman v. Wichern, supra.

(3) Further, the study shall analyze the effect upon the state of Iowa and its political subdivisions, if any, including savings to the state of Iowa, resulting from the enactment of 1984 Iowa Acts, chapter 1293 (comparative negligence bill), and particularly, the study shall report the savings to the state of Iowa resulting from the elimination of the doctrine of pure, joint and several liability on all cases tried after July 1, 1984.

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\*Item veto; see message at end of this Act

(4) Further, the attorney general's office shall elicit from the municipalities of the state of Iowa, including all counties, the same or similar information as listed above and make a similar analysis; and shall report that analysis and results to the general assembly on or before January 1, 1986. This analysis shall include any change in insurance premiums from 1980 to date to document whether the changes in the Iowa negligence law since 1980 have had any effect on the insurance premiums paid by Iowa governmental subdivisions.

c. In addition to the funds appropriated under paragraph "a", there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1985 and ending June 30, 1986, an amount not exceeding ninety-five thousand (95,000) dollars to be used for the enforcement of the Iowa competition law under chapter 553. The expenditure of the funds appropriated under this subsection is contingent upon receipt by the general fund of the state of an amount at least equal to either the expenditures from damages awarded to the state or a political subdivision of the state by a civil judgment under chapter 553, if the judgment authorizes the use of the award for enforcement purposes or costs or attorney fees awarded the state in state or federal antitrust actions.

d. In addition to the funds appropriated under paragraph "a", there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1985 and ending June 30, 1986, an amount not exceeding thirty thousand (30,000) dollars to be used for public education relating to consumer fraud. The expenditure of the funds appropriated under this paragraph is contingent upon receipt by the general fund of the state of an amount at least equal to the expenditures from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment, if the judgment authorizes the use of the award for public education on consumer fraud. Funds received in a previous fiscal year which have not been expended shall be credited to this fiscal year.

e. Prosecuting attorney training program for salaries, support, maintenance and miscellaneous purposes which funds shall be used to attract federal and county funding ..... \$ 89,211

f. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this paragraph ..... \$ 52,000

g. For payment of grants to dispute resolution programs under the prosecuting attorney training program ..... \$ 50,000

3. IOWA LAW ENFORCEMENT ACADEMY

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 768,816

4. BOARD OF PAROLE

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 461,804

5. STATE MEDICAL EXAMINER

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 30,000

It is the intent of the general assembly that the attorney general or a designee, the commissioner of public safety or a designee, and the dean of the college of medicine at university of Iowa hospital or a designee shall meet and develop recommendations and proposed changes to the Code of Iowa designed to clarify the duties of the Iowa state medical examiner and assist the performance of these duties. These recommendations shall be submitted to the justice system appropriations subcommittee on or before January 15, 1986.

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the judicial branch, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1985-1986  
Fiscal Year

1. COURTS AND ADMINISTRATION

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, court administrator, clerk of the supreme court, district court administrators, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, maintenance, equipment and miscellaneous purposes, including implementation of court reorganization according to provisions of 1983 Iowa Acts, chapter 186, section 10301

\$ 31,500,000

It is the intent of the general assembly that the counties be aware that the state may delay the schedule of state assumption of responsibility for the fiscal year beginning July 1, 1986. If the state is unable to fully assume the 1986-1987 fiscal year component of the court system, the chairpersons of the house and senate committees on appropriations shall notify the supreme court and the counties of this possible delay by no later than February 15, 1986.

Sec. 7. Section 602.1301, subsection 2, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. As early as possible, but not later than December 1, the supreme court shall submit to the legislative fiscal bureau the annual budget request and detailed supporting information for the judicial department. The submission shall be designed to assist the legislative fiscal bureau in its preparation for legislative consideration of the budget request. The information submitted shall contain and be arranged in a format substantially similar to part II of the governor's budget message as specified in section 8.22.

b. Before December 1, the supreme court shall submit to the state comptroller an estimate of the total expenditure requirements of the judicial department.

Sec. 8. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

1985-1986  
Fiscal Year

DEPARTMENT OF PUBLIC SAFETY

1. ADMINISTRATIVE FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes of the department, criminal justice information system, and radio communications

\$ 4,637,711

b. For salaries, support, maintenance, and miscellaneous purposes of the victim compensation program

\$ 43,000

When the department of transportation revokes a person's license or operating privilege under chapter 321B, the department shall assess the person a civil penalty of one hundred dollars. A separate fund is created in the state treasury. The money collected by the department under this paragraph shall be transmitted to the treasurer of state who shall deposit the money in the fund to be used for the purposes of chapter 912. Any balance in this fund on June 30 of any fiscal year exceeding fifty thousand dollars, shall revert to the general fund of the state. A temporary restricted license shall not be issued or a license or privilege to drive reinstated until the civil penalty has been paid.

2. INSPECTION FUNCTION

For salaries, support, maintenance, and miscellaneous purposes of fire marshal's inspections, administration of the state building code, arson investigators including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated

\$ 1,090,409

3. SECURITY FUNCTION

For salaries, support, maintenance, and miscellaneous purposes of the capitol security division

\$ 726,939

4. INVESTIGATION FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes, including lease or lease purchase of laboratory equipment, of the division of criminal investigation containing the bureaus of identification, drug law enforcement, and beer and liquor law enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated

\$ 5,003,818

b. For undercover purchases by the division of criminal investigation agents and local law enforcement agents

\$ 200,000

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

\$ 232,000

It is the intent of the general assembly that the division of criminal investigation of the department of public safety shall purchase not more than five motor vehicles of the same make or model based upon specifications submitted by the department.



5. DIVISION OF HIGHWAY SAFETY AND UNIFORMED FORCE

a. For salaries, support, maintenance, and miscellaneous purposes including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated provided that the commissioner of public safety shall immediately rescind any administrative rule, policy or directive which prohibits officers of the Iowa state highway safety patrol from becoming partisan candidates or campaigning for a partisan elective public office

\$ 18,064,000

b. In addition to the complement of not to exceed four hundred ten persons there shall be eight persons who shall serve as members of the highway safety patrol for the period beginning July 1, 1985 and ending June 30, 1987. The eight additional members of the highway safety patrol shall be totally funded through the use of federal funds.

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

\$ 57,000

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

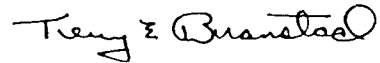
If the department of public safety uses funds appropriated for one purpose for other purposes within the scope of the department, as provided in section 8.39, the department shall notify, at least two weeks prior to the transfer, in addition to those persons provided in section 8.39, each of the members of the justice system appropriations subcommittee regarding the transfer.

Sec. 9. The amount of the funds appropriated under sections 1, 2, 3, 5, and 8 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

Sec. 10. Total appropriations specified in this Act, except section 6 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceed four and one-half percent.

Sec. 11. All federal grants to and the federal receipts of agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Approved May 3, 1985, except the item which I hereby disapprove and which is designated as section 4 which is bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

A handwritten signature in black ink, reading "Terry E. Branstad". The signature is written in a cursive style with a large, looped "B" at the end.

TERRY E. BRANSTAD  
Governor

The Honorable Robert T. Anderson  
Lieutenant Governor  
State Capitol Building  
L O C A L

Dear Governor Anderson:

I hereby transmit Senate File 552, an act making appropriations to and relating to the financing of departments and agencies whose responsibilities relate to corrections, public safety, and the justice system.

Senate File 552 is approved May 3, 1985, with the following exception which I hereby disapprove.

I am unable to approve Section 4 which reads as follows:

Sec. 4. 1984 Iowa Acts, chapter 1306, section 2, subsection 2, unnumbered paragraph 3, is amended to read as follows:

The department, by ~~January 15~~ July 1, 1985, shall provide the general assembly with evidence from independent experts of the validity and effectiveness of the inmate classification system and shall suggest changes in the system to make it more effective. If the department fails to comply with the requirements of this paragraph, the state comptroller shall withhold one percent of the funds appropriated under section 2, subsection 1 of this Act when the funds are allocated to the department until the evidence has been presented to the general assembly. The validation study shall determine if the classification instruments accomplish the following objectives:

Section 4 provides that the Department of Corrections shall be penalized one percent of the funds appropriated to the state office for general administration, if the study which is being completed by an independent Philadelphia research firm with federal grant money is not completed by July 1, 1985. In the 1984 appropriations bill for the Department of Corrections, the legislature stated that this study must be done. However, the legislature appropriated no money for the project.

The Department used \$5,000 from its budget which had been appropriated for other purposes to start the study and, after considerable effort, obtained a \$15,000 federal grant from the National Institute of Corrections in October of 1984 to complete the project.

Some legislators had told the Corrections officials that the project should not be done by the Department's statisticians and should not be done using professionals from the Iowa universities. The Department solicited the work of a Philadelphia research firm which some of the legislators specifically requested. In January of 1984, the Department reported to the appropriate subcommittee of the legislature that it had provided all requested information to the Philadelphia firm and that the Department, as well as the legislators, are now waiting for the results of the study.

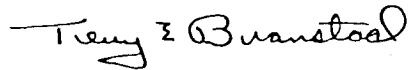
If some unforeseen catastrophe occurs or some problem arises which results in the experts being unable to complete the study by July 1, 1985, the general administration of the Department should not be penalized by losing one percent of its operating budget. The Department has acted in good faith to comply with the legislators' request and should not be placed in a position of losing funding over a matter which they have little control.

It should be noted that the National Institute of Corrections and not the Department has the contract with the Philadelphia firm. Because of the lack of control the Department has over the completion of the project, the penalty provision in Section 4 is unduly harsh and also unnecessary.

The veto of Section 4 does not in any way or manner indicate that the study should not be completed. On the contrary, the Department is committed to do everything possible to encourage the experts to complete the study. The study has merit and should be completed as quickly as possible without sacrificing quality.

For the above reasons, I hereby respectfully disapprove of this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 552 are hereby approved as of this date.

Very truly yours,

A handwritten signature in cursive script that reads "Terry E. Branstad". The signature is written in dark ink and is positioned to the right of the "Very truly yours," text.

Terry E. Branstad  
Governor

**CHAPTER 263****APPROPRIATIONS FOR EDUCATION, ARTISTIC AND HISTORICAL PROGRAMS***H.F. 747*

**AN ACT** relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education, artistic, and historical programs of this state.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the following named agencies the following amounts, or so much thereof as necessary, to be used for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
<b>1. IOWA STATE ARTS COUNCIL</b>	
For salaries, support, maintenance, and miscellaneous purposes including funds to match federal grants .....	\$ 528,114
It is the intent of the general assembly that the Iowa state arts council expend, from funds appropriated in this subsection, moneys to support community arts council development.	
<b>2. IOWA STATE HISTORICAL DEPARTMENT</b>	
a. For salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,409,957
b. For the state historical board for per diem and expenses .....	\$ 6,690
<b>3. IOWA LIBRARY DEPARTMENT</b>	
a. For the state library for salaries, support, maintenance, and miscellaneous purposes .....	\$ 1,201,448
b. For the regional library system for state aid .....	\$ 1,549,535
<b>4. IOWA DEPARTMENT OF PUBLIC BROADCASTING</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 6,196,900

Sec. 2. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as may be necessary, to be used for the funding of the following programs for the purposes designated:

	1985-1986 <u>Fiscal Year</u>
<b>1. IOWA COLLEGE AID COMMISSION</b>	
For salaries, support, maintenance, and miscellaneous purposes .....	\$ 443,601

2. TUITION GRANT PROGRAM

To supplement the appropriation provided in subsection 1 of section 261.25 for tuition grants to full-time resident students attending accredited private institutions of higher education in Iowa under sections 261.9 to 261.16

\$ 973,000

Sec. 3.

1. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of eight hundred sixty-seven thousand one hundred thirty-two (867,132) dollars, or so much thereof as may be necessary, to be paid to the college of osteopathic medicine and surgery for the subvention program created pursuant to sections 261.18 and 261.19. Notwithstanding section 261.19, for the fiscal year beginning July 1, 1985, the subvention shall be used for the admission and education of students enrolled in each of the four years of classes in the college of osteopathic medicine and surgery.

2. In addition to the requirements of sections 261.18 and 261.19, the availability of funds appropriated by this section is subject to the condition that one half of the funds appropriated for fiscal year 1985-1986 shall not be released until delivery to the legislative fiscal bureau of the June 30, 1985, financial audits, conducted by an independent third party, of the college of osteopathic medicine and surgery.

Sec. 4. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of twenty-one thousand eight hundred seventy (21,870) dollars, or so much thereof as may be necessary, to provide for a national guard education program. Funds shall only be expended for Iowa residents who are enlisted members in good standing in the Iowa national guard who are enrolled as undergraduates in Iowa postsecondary educational institutions. Funds expended on behalf of each full-time undergraduate student shall not exceed two hundred fifty (250) dollars per year. Funds expended on behalf of each half-time undergraduate student shall not exceed one hundred twenty-five (125) dollars per year.

\*Sec. 5. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of fifteen thousand (15,000) dollars, or as much thereof as may be necessary, to make reimbursement payments to teachers under the guaranteed student loan payment program established in section 261.45.\*

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986, to the department of public instruction the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

1985-1986  
Fiscal Year

1. GENERAL OFFICE ADMINISTRATION

a. For salaries, support, maintenance, and miscellaneous purposes \$ 4,134,062

It is the intent of the general assembly that the department of public instruction expend, from funds appropriated in this paragraph, up to one hundred thousand (100,000) dollars for

\*Item veto; see message at end of this Act

development of subject matter committees and committees that cross subject matter lines for coordination of curriculum at all education levels. It is also the intent of the general assembly that the department of public instruction expend, from funds appropriated in this paragraph, up to two hundred fifty thousand (250,000) dollars to establish a new system of certification for teachers, including, a pilot project for testing graduates of teacher education programs in basic competency, professional competency, and subject matter competency areas.

b. Fire service education ..... \$ 200,000

\*c. As a condition of the appropriation made in paragraph "a", the department of public instruction shall expend at least twenty-five thousand (25,000) dollars of the moneys appropriated in paragraph "a" to provide increased compensation for individuals employed by the department in consultant positions in order to bring their compensation up to a level that is more competitive with compensation received by individuals employed in other professional positions that have similar educational requirements.\*

2. VOCATIONAL EDUCATION

ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 878,320

3. VOCATIONAL EDUCATION AID

For vocational education aid to secondary schools ..... \$ 3,760,668

Funds appropriated by this paragraph are to be used for aid to school districts for development and the conduct of both continuing and new vocational programs, services and activities of vocational education through secondary schools, and for aid to existing jointly administered secondary vocational education programs, in accordance with chapter 258 and chapter 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools.

4. PROFESSIONAL TEACHING

PRACTICES COMMISSION

For the use of the professional teaching practices commission to carry out chapter 272A ..... \$ 57,915

5. VOCATIONAL YOUTH ORGANIZATION FUND

To carry out section 258.14 ..... \$ 9,720

6. SCHOOL FOOD SERVICE

For the purpose of providing assistance to students enrolled in public school districts and nonpublic schools of the state for breakfasts, lunches and minimal equipment programs with the funds being used as state matching funds for federal programs and which shall be disbursed according to federal regulations ..... \$ 3,207,600

7. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a

\*Item veto; see message at end of this Act

nonpublic school or authorized by section 301.1. Such funding is limited to ten dollars per pupil and shall not exceed the comparable services offered to resident public school pupils

.....	\$	350,000
8. SCHOOL BUDGET REVIEW COMMITTEE .....	\$	15,000

9. NON-ENGLISH SPEAKING

To provide funding to public schools and for nonpublic school students for special instruction for non-English speaking students as provided in section 280.4

.....	\$	194,400
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10. COMPUTER SOFTWARE CLEAR-INGHOUSE

To carry out the provisions of section 257.41

.....	\$	100,000
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It is the intent of the general assembly that moneys be appropriated to carry out the provisions of section 257.41 only for the fiscal years commencing July 1, 1985, July 1, 1986, and July 1, 1987.

11. MERGED AREA SCHOOLS

a. For general state financial aid to merged areas as defined in section 280A.2

.....	\$	43,992,818
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b. As a condition of the appropriation made in paragraph "a", it is the intent of the general assembly that the department of public instruction shall allocate the moneys appropriated in paragraph "a" for general aid purposes and to achieve greater equity in the allocation of general state financial aid to merged areas. The department of public instruction shall allocate moneys appropriated in paragraph "a" to each merged area school by adding together all of the following:

(1) An amount equal to ninety-nine percent of the amount appropriated to the area school in 1984 Iowa Acts, chapter 1302, section 6, subsection 12, paragraph "a".

(2) Seventy-five percent of ninety-nine percent of the amount appropriated to the area school in 1983 Iowa Acts, chapter 205, section 14, subsection 1, paragraph "a".

(3) An amount for each area school in which the total of general state aid received under 1983 Iowa Acts, chapter 197, section 8, subsection 12, paragraph "a"; vocational state aid received under 1983 Iowa Acts, chapter 197, section 8, subsection 12, paragraph "b"; and general property tax revenues received from the levy in section 280A.17; per student reimbursable contact hour for the fiscal year beginning July 1, 1983, is below the average for those revenues for all merged area schools per student reimbursable contact hour for the fiscal year beginning July 1, 1983. The amount received by an area school under this paragraph shall be determined by dividing the reimbursable contact hour differential for the fiscal year beginning July 1, 1983 for each area school below the average for all area schools by the total reimbursable contact hour differential for the fiscal year beginning July 1, 1983 for all area schools below the average and multiplying the result by the amount of the remaining funds appropriated in paragraph "a" after amounts in subparagraphs (1) and (2) have been allocated.



For the purpose of this paragraph, the reimbursable contact hour differential is determined for an area school by subtracting the area school's general state aid per reimbursable contact hour from the average general state aid per reimbursable contact hour for all area schools.

c. As a further condition of the appropriation made in paragraph "a", it is the intent of the general assembly that the state board of public instruction shall submit to the general assembly recommendations for the appropriation of general state financial aid for the merged area schools for future fiscal years that will provide that existing inequities in funding of merged area schools, including funds for existing merged area school public radio stations, will cease by the fiscal year beginning July 1, 1989. The recommendations shall take into account the existing general state financial aid for each area school, the extent of the inequity existing for each area school whose total state aid is below the average total state aid for all area schools, and the need for salary and support improvements at each area school. Prior to December 1, 1985, the state board shall present its recommendations for area school funding for the fiscal year beginning July 1, 1986. The recommendations shall include recommendations for interim action if it appears that full funding requests cannot be met.

d. To provide funds for vocational education programs in merged area schools in accordance with chapter 258 and chapter 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools

\$ 8,456,400

**12. EDUCATIONAL EXCELLENCE INCENTIVE AWARDS**

For educational excellence incentive awards

granted under section 260A.4

\$ 150,000

**Sec. 7.**

1. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1986 and ending June 30, 1987, for general state financial aid to merged areas the amount of fourteen million three hundred ninety-seven thousand, six hundred six (14,397,606) dollars, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1985 and ending June 30, 1986, to be allocated to each area school by adding together the following:

a. An amount equal to the amount appropriated to the area school in 1984 Iowa Acts, chapter 1302, section 7, subsection 1.

b. Twenty-five percent of the amount appropriated to the area school in 1983 Iowa Acts, chapter 205, section 14, subsection 1, paragraph "a".

2. Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1986.

**Sec. 8.** General state aid paid to area schools under section 6, subsection 11, paragraph "a" of this Act, for expenditures incurred during the fiscal year beginning July 1, 1985 and ending June 30, 1986, shall be paid by the state comptroller in installments due on or about November 15, February 15, and May 15 of that fiscal year. The payment received by area schools on or about August 15 under section 7 of this Act is an account receivable for the previous fiscal year. The installments shall be as nearly equal as possible as determined by the state comptroller, taking into consideration the relative budget and cash position of the state resources.

**Sec. 9.** It is the intent of the general assembly that the department of public instruction conduct a study during the fiscal year beginning July 1, 1985 to determine the amounts of

reimbursement received by the parents or guardians of nonpublic school pupils furnishing transportation for their children and receiving reimbursement calculated under section 285.1, subsection 3, and section 285.2 and to determine whether parents and guardians of nonpublic school pupils are receiving reimbursement payments for transporting both elementary and high school pupils. The department shall report the results of its study to the general assembly not later than February 15, 1986.

Sec. 10. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the following amounts, or so much thereof as may be necessary, for use for the following designated purposes, however, as a condition for the appropriation of these funds, the state board of regents, for purposes of implementing and administering collective bargaining pursuant to chapter 20, shall act as the exclusive representative of the state of Iowa with respect to its faculty, scientific, and other professional staff.

1985-1986  
Fiscal Year

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries, support, maintenance, equipment, and miscellaneous purposes, including state board of regents members receiving a per diem not to exceed forty dollars per day ..... \$ 459,581

b. For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa in amounts as may be necessary to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions ..... \$ 18,165,066

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory.

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the pediatric department of the college of medicine to continue to fund the program of research at the current level in the cause, course, treatment, cure, and management of diabetes mellitus ..... \$ 123,817,028

It is the intent of the general assembly that funds appropriated in this paragraph not be used to pay for efforts of the prisoner assistance clinic at the university of Iowa law school to solicit participation in the clinic by inmates at state correctional facilities.

It is the intent of the general assembly that three hundred twelve thousand five hundred (312,500) dollars of the funds appropriated in this paragraph be used for the purchase of research and instructional equipment.

b. University hospitals

(1) For salaries, support, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter 255 ..... \$ 25,917,985

(2) For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148C for the family practice program ..... \$ 1,428,333

(3) For specialized child health care services, including childhood cancer diagnostic and treatment network programs; rural comprehensive care for hemophilia patients; and Iowa high risk infant follow-up program ..... \$ 292,848

c. As a condition of the appropriation made in paragraph "b", subparagraph (1), the county quotas for indigent patients for the fiscal year commencing July 1, 1985 shall not be lower than the county quotas for the fiscal year commencing July 1, 1984. Patients eligible for reimbursement under the medically-needy program shall be certified for medicaid reimbursement and shall not be counted under the county indigent patient quotas.

It is the intent of the general assembly that university hospitals shall not perform heart, liver, artificial heart, or heart/lung transplantations on indigent patients referred under chapter 255 unless the expenses of such procedures are defrayed by moneys other than state appropriations.

Prior to consideration of the appropriations requests for the fiscal year beginning July 1, 1986, from the state board of regents for the university hospitals indigent patient care program, the joint education appropriations subcommittee shall monitor the heart, liver, and heart/lung transplantation experience at the university hospitals, shall review the report and recommendations of the governor's advisory committee on organ transplants made in December 1984, and shall make recommendations to the legislative council and the general assembly regarding state funding for heart, liver, and heart/lung transplantations for indigent patients.

d. As a condition of the appropriation made in paragraph "b", subparagraph (1), funds appropriated in that subparagraph shall not be allocated to the university hospitals until the superintendent has filed with the state comptroller and the legislative fiscal bureau a quarterly report containing the account required in section 255.24. The report shall include the information required in section 255.24 for patients by the type of service provided.

e. As a condition of the appropriation made in paragraph "b", funds appropriated in this section shall not be used to perform abortions except medically necessary abortions, and shall not be used to operate the early termination of pregnancy clinic except for the performance of medically necessary abortions. For the purpose of this paragraph, an abortion is the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and a medically necessary abortion is one performed under one of the following conditions:

(1) The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

(2) The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

(3) The pregnancy is the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(4) The pregnancy is the result of incest which is reported within one hundred fifty days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(5) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

f. Psychiatric hospital

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the care, treatment and maintenance of committed and voluntary public patients ..... \$ 5,590,156

g. State hygienic laboratory

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 2,204,443

h. Hospital school

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 4,070,497

i. Oakdale campus

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 2,394,094

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 100,963,618

It is the intent of the general assembly that three hundred twelve thousand five hundred (312,500) dollars of the funds appropriated in this paragraph be used for the purchase of research and instructional equipment.

b. Agricultural experiment station

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 11,558,141

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, and miscellaneous purposes ..... \$ 10,981,792

d. Center for industrial research and service

For funding the small business development centers to provide assistance to small businesses and business groups in Iowa ..... \$ 700,000

4. UNIVERSITY OF NORTHERN IOWA

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... \$ 39,786,901

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, and miscellaneous purposes .....	\$	4,809,547
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6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries, support, maintenance, and miscellaneous purposes .....	\$	2,631,978
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Sec. 11. There is appropriated from the general fund of the state to the commission on the aging for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the sum of one hundred thousand (100,000) dollars, or so much thereof as is necessary, to deliver legal services to the elderly. The commission shall use the funds to utilize law school clinical programs located in this state which provide legal services for the elderly.

Sec. 12. It is the intent of the general assembly that WOI-TV, a self-supporting department of Iowa state university of science and technology, continue to provide services consistent with the university's stated missions of teaching, research, and service; but that it also increase its efforts to enhance the return on investment for the best interests of the taxpayers of Iowa and to promote economic development in Iowa and explore the feasibility of transferring the license to operate WOI-TV to a foundation or organization affiliated with Iowa state university, and that representatives of Iowa state university and WOI-TV report on those efforts to the joint education appropriations subcommittee during the 1986 legislative session.

Sec. 13. Upon the request of the Iowa department of public broadcasting, the executive council shall sell the property and building located at 2801 Bell avenue in Des Moines, Iowa, and used by the Iowa department of public broadcasting. The proceeds from the sale of the property and building are appropriated to the Iowa department of public broadcasting to pay a portion of the costs of construction of a new building for the Iowa department of public broadcasting. However, the executive council may direct that the building and property located at 2801 Bell avenue in Des Moines, Iowa, be used for another state purpose. The executive council shall determine by independent appraisal the fair market value of the building and property and, in that case, an appropriation equal to appraised value of the building and property may be considered by the general assembly to pay a portion of the costs of construction of a new building for the Iowa department of public broadcasting.

Sec. 14. NEW SECTION. REVENUE FROM CONTRACTS.

The board shall retain for its use revenues generated through contracts with nonprofit organizations or their affiliated organizations from the use of the educational radio and television facility and other educational communications services.

Sec. 15. NEW SECTION. 257.44 FOREIGN LANGUAGE PROGRAMS.

There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1985 and each succeeding fiscal year the sum of one hundred fifty thousand (150,000) dollars, or as much thereof as is necessary, to be used to provide assistance to school districts in offering foreign language courses. The department may use the money in the following areas:

1. To provide grants to school districts to develop and implement foreign language programs for elementary school pupils.
2. For administrative costs of the department in assisting school districts to develop programs under subsection 1 and in coordinating and developing other foreign language programs.

Sec. 16. Section 261.12, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1983~~ 1984, two thousand ~~one two hundred fifty~~ two hundred fifty dollars, and for the fiscal year beginning July 1, ~~1984~~ 1985 and for each following fiscal year, two thousand ~~two three hundred fifty~~ three hundred fifty dollars.

Sec. 17. Section 261.25, subsection 1, Code 1985, is amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~nineteen million one hundred sixty-six thousand six hundred twenty million~~ six hundred thousand (20,600,000) dollars for tuition grants.

\*Sec. 18. Section 261.45, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Received reimbursement payments under this section during the fiscal year beginning July 1, 1984.

Sec. 19. Section 261.45, unnumbered paragraph 3, Code 1985, is amended by striking the unnumbered paragraph.\*

Sec. 20. Section 261.51, Code 1985, is amended to read as follows:

**261.51 SCIENCE AND MATHEMATICS LOAN PROGRAM.**

The Iowa science and mathematics loan program is established to be administered by the commission. The purpose of the loan program is to assist ~~teachers to~~ individuals possessing a baccalaureate degree or higher to either obtain or to upgrade their teaching authorization certificates in the areas of science or mathematics, or both, or if the individuals are already certificated teachers under chapter 260, to obtain or upgrade their approvals to teach in the areas of science or mathematics, or both. The commission shall adopt rules under chapter 17A, in consultation with the board of educational examiners, to administer the program. The rules shall provide that loans not be granted to teachers for the purpose of improving their knowledge of subject content or teaching skills in order to teach courses in subject matter areas for which they possess approval granted by the board of educational examiners. The rules shall also provide that priority for loans be given to teachers possessing minimal qualifications for teaching science or mathematics.

Sec. 21. Section 261.52, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Loans may be granted ~~only to a person an individual possessing a baccalaureate degree or higher or to an individual possessing a valid teacher's certificate issued under chapter 260. The annual amount of a loan to a teacher an applicant enrolled as a full-time student shall not exceed one thousand dollars for the fiscal year beginning July 1, 1983 and one thousand five hundred dollars for each succeeding fiscal year, or the total amount of tuition and fees, whichever is less, and loans shall be granted for not more than the equivalent of two years. The annual amount of a loan to a teacher enrolled on at least a half-time basis shall not exceed five hundred dollars for the fiscal year beginning July 1, 1983 and seven hundred fifty dollars for each succeeding fiscal year, or an individual enrolled on less than a full-time basis shall be reduced proportionally and shall not exceed the total amount of tuition and fees, whichever is less. Loans for a part-time student shall be granted for not more than five years.~~ Loans may be made for courses in programs offered in this state and approved by the board of educational examiners. The board of educational examiners shall adopt rules pursuant to chapter 17A for approval of programs. The rules shall require that the programs provide training in both subject content and teaching methodology for mathematics and science teaching.

\*Item veto; see message at end of this Act.

Sec. 22. Section 261.53, Code 1985, is amended to read as follows:

261.53 APPROPRIATIONS.

There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal years ~~year~~ beginning July 1, 1983 and July 1, 1984, the sum of forty thousand dollars, or as much thereof as is necessary, 1985 and for each succeeding fiscal year, the sum of one hundred forty seven thousand dollars, or as much thereof as is necessary, to make loans under sections 261.51 and 261.52.

Sec. 23. Section 261.54, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Repayment of the loan shall begin one year after the teacher recipient completes the educational program for which tuition and fees are received except as otherwise provided in this section. If a teacher recipient submits evidence to the commission that the teacher recipient was employed as a teacher of one or more science or mathematics courses or as an elementary teacher teaching science and mathematics in a public school district or nonpublic school in this state or at the Iowa braille and sight-saving school or the Iowa school for the deaf during that year, fifty percent of the amount of the loan is canceled. If the teacher recipient continues employment as a teacher of science or mathematics courses or as an elementary teacher teaching science and mathematics during the next succeeding school year and submits evidence to the commission of the continuation of teaching employment, the teacher recipient is not required to commence repayment during that school year and at the end of that school year the remaining fifty percent of the loan is canceled.

Sec. 24. Section 261.61, unnumbered paragraph 1, Code 1985, is amended to read as follows:

A person who graduates from a public or nonpublic high school in this state after January 1, 1984 1986 who has successfully completed at least seven eight units of science and mathematics courses, and at least three four of the seven eight units include sequential mathematics courses at the advanced algebra level or higher, chemistry, advanced chemistry, physics, or advanced physics courses, and who attends an eligible institution is eligible for a supplemental grant provided in this chapter.

Sec. 25. Section 261.63, Code 1985, is amended to read as follows:

261.63 APPROPRIATION.

Commencing July 1, 1984, there is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million five hundred thousand dollars for supplemental grants.

Sec. 26. Section 442.44, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The state comptroller shall pay to each school district in this state an amount equal to fifty dollars times the sum of the number of pupils ~~enrolled for the entire school year on a full-time equivalent basis in~~ who successfully complete a year long course in Latin, German, French or Spanish at the third or fourth year level and for the number of pupils who successfully complete a year long course in another foreign language courses at the first-year level and twenty-five dollars times the sum of the number of pupils enrolled for the entire school year on a full-time equivalent basis in sequential mathematics courses at the advanced algebra level and above and in chemistry, advanced chemistry, physics and advanced physics courses first or second year level.

Sec. 27. Section 442.44, unnumbered paragraph 4, Code 1985, is amended to read as follows:

For the school year beginning July 1, ~~1984~~ 1985 and each succeeding school year, there is appropriated from the general fund of the state to the state comptroller the sum of ~~two million one~~ ~~one~~ five hundred thousand dollars, or so much thereof as is necessary, to make the payments to school districts required by this section. If the funds appropriated are insufficient to make the payments required under this section, the state comptroller shall prorate the payments to school districts. Moneys received by a school district under this section are miscellaneous income. Moneys received by a school district for pupils enrolled in ~~science and mathematics~~ foreign language courses shall be used only for purchase of equipment, ~~and~~ supplies, and ~~ser-~~ ~~VICES~~ that benefit the foreign language program of the school district.

Sec. 28. Chapter 286A and section 257.42, Code 1985, are repealed.

Sec. 29. The amount of the funds appropriated under sections 1 through 6 and 10 and 11 of this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall be reduced by one percent, rounded to the nearest whole dollar, and the provisions of this section shall prevail over any other provisions of this Act.

Sec. 30. Section 24 of this Act takes effect January 1, 1986.

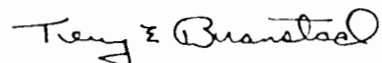
Sec. 31. The state comptroller shall recover one hundred ninety-seven thousand five hundred twenty-five (197,525) dollars from the amounts budgeted for new car purchases under section 10 of this Act. From the amount appropriated under section 10, subsection 2, paragraph "a" of this Act, the state comptroller shall recover one hundred thousand seven hundred twenty-five (100,725) dollars. From the amount appropriated under section 10, subsection 3, paragraph "a" of this Act, the state comptroller shall recover seventy-one thousand three hundred (71,300) dollars. From the amount appropriated under section 10, subsection 4 of this Act, the state comptroller shall recover twenty-five thousand five hundred (25,500) dollars.

Sec. 32. Total appropriations specified in this Act for the fiscal year beginning July 1, 1985 and ending June 30, 1986 shall not be exceeded in the fiscal year beginning July 1, 1986 and ending June 30, 1987 unless revenue growth as estimated by the legislative fiscal bureau in its December 31, 1985 quarterly report exceeds four and one-half percent.

Sec. 33. All federal grants to and the federal receipts of agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Sec. 34. Moneys appropriated by this Act shall not be used for capital improvements.

Approved May 3, 1985, except the items which I hereby disapprove and which are designated as section 5; section 6, subsection 1(c); section 18; and section 19; which are bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Speaker of the House of Representatives this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD  
Governor



The Honorable Donald Avenson  
Speaker  
House of Representatives  
State Capitol Building  
L O C A L

Dear Mr. Speaker:

I hereby transmit House File 747, an act relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education, artistic, and historical programs of this state.

House File 747 is approved May 3, 1985, with the following exceptions which I hereby disapprove.

I am unable to approve of the item designated as Section 6, Subsection 1(c), which reads as follows:

c. As a condition of the appropriation made in paragraph "a", the department of public instruction shall expend at least twenty-five thousand (25,000) dollars of the moneys appropriated in paragraph "a" to provide increased compensation for individuals employed by the department in consultant positions in order to bring their compensation up to a level that is more competitive with compensation received by individuals employed in other professional positions that have similar educational requirements.

The state of Iowa is currently in the process of implementing a state-wide comparable worth policy. The system is based on comprehensive evaluations of the "worth" of the tasks done by employees in all state classifications, and in all state agencies.

The Department of Public Instruction's consultant pay classifications were evaluated as part of the comparable worth study. Now, even as comparable worth is just being implemented on a state-wide basis, this section would go outside the comparable worth system to make adjustments to the salaries of a few employees in one department. These arbitrarily-chosen adjustments are inappropriate at this time and would not be in the interests of developing a sound comparable worth system for the state as a whole.

I am also unable to approve Sections 5, 18, and 19, which read as follows:

Sec. 5. There is appropriated from the general fund of the state to the Iowa college aid commission for the fiscal year beginning July 1, 1985, and ending June 30, 1986, the sum of fifteen thousand (15,000) dollars, or as much thereof as may be necessary, to make reimbursement payments to teachers under the guaranteed student loan payment program established in section 261.45.

Sec. 18. Sec. 261.45, Code 1985, is amended by adding the following new subsection:  
NEW SUBSECTION. 6. Received reimbursement payments under this section during the fiscal year beginning July 1, 1984.

Sec. 19. Sec. 261.45, unnumbered paragraph 3, Code 1985, is amended by striking the unnumbered paragraph.

Taken together, these three sections effectively eliminate the guaranteed loan payment program established in 1983. This program encourages college students to become certified and teach advanced mathematics and advanced science courses in Iowa. Individuals who graduated from college in 1983 or later, and who teach qualifying subjects, are reimbursed by this program for up to \$1,000 of their guaranteed student loan payments for each year they teach. Teachers may receive up to \$6,000 in reimbursements under this program.

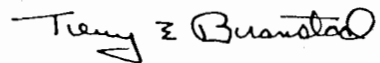
Many studies have indicated that there is an impending shortage of qualified teachers in the advanced math and science areas. This program encourages graduates in these shortage areas to teach in Iowa.

In its two years of existence, this program has provided incentives to 30 new Iowa teachers. These are all teachers who are providing instruction in Iowa schools in these high demand areas, and who graduated from college since 1983. The program is clearly a success at encouraging math and science instruction for a minimal cost to the state.

In light of its success, this program should be retained to complement the forgivable loan program established in House File 225. The forgivable loan program provides assistance to Iowa residents who attend higher education institutions in Iowa. However, that new program does not provide teaching incentives for Iowa residents who attended out-of-state institutions, or for residents of other states who attended Iowa colleges. The guaranteed loan payment program provides incentives for these teachers, and no cost accrues to the Iowa taxpayers until the teacher has actually taught here for one year. Thus the guaranteed loan payment program is a valuable complement to the new forgivable loan. It should be retained.

For the above reasons, I hereby respectfully disapprove of these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 747 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad  
Governor

**CHAPTER 264****APPROPRIATION FOR TRADE CENTER COMMITTEE***S.F. 586*

**AN ACT** appropriating moneys from the general fund of the state to the legislative council for the use of the Iowa world trade center selection advisory committee effective upon publication.

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

Section 1. There is appropriated from the general fund of the state to the legislative council for the use of the Iowa world trade center selection advisory committee for the fiscal period beginning on the effective date of this Act and ending June 30, 1986 the sum of seventy-five thousand (75,000) dollars, or so much thereof as is necessary, to employ two persons, pay expenses of the members of the committee, or other expenses approved by the committee.

Notwithstanding 1985 Iowa Acts, House File 225, section 302, subsection 5, paragraph "a", any moneys expended from the general fund of the state as provided in this Act shall be repaid to the general fund of the state not later than June 30, 1986 from funds appropriated under 1985 Iowa Acts, House File 225, section 302, subsection 5, paragraph "a", for the construction of the Iowa world trade center.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Cascade Pioneer-Advertiser*, a newspaper published in Cascade, Iowa, and in the *Diamond Trail News*, a newspaper published in Sully, Iowa.

Approved May 15, 1985

I hereby certify that the foregoing Act was published in the *Diamond Trail News*, Sully, Iowa on May 22, 1985 and in *The Cascade Pioneer-Advertiser*, Cascade, Iowa on May 23, 1985.

MARY JANE ODELL, *Secretary of State*

**CHAPTER 265**

**APPROPRIATION OF PETROLEUM OVERCHARGE FUNDS**

*S.F. 587*

**AN ACT** relating to and appropriating petroleum overcharge funds.

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

**Section 1. PETROLEUM OVERCHARGE FUND APPROPRIATION.**

1. Funds are appropriated to the energy policy council from the funds in the petroleum overcharge fund as a consequence of the consent decrees with Standard Oil Company (Indiana), Nordstrom Oil Company, Belridge Oil Company and Vickers Energy Corporation. The funds appropriated to the energy policy council shall be distributed to the following agencies for the purposes designated in accordance with the following percentages:

a. To the energy policy council for the weatherization of residences of low-income persons ..... 21.0 percent

This program shall be administered in accordance with the federal department of energy weatherization laws and regulations for households with an income of one hundred fifty percent or less of the federal poverty guidelines.

b. To the department of transportation to establish a revolving loan fund for rural and community-based transit capital purchases ..... 37.2 percent

The general assembly intends that this program enable local transit systems to borrow local match money for capital purchases. Borrowers must demonstrate the ability to repay the loan.

c. To the department of agriculture for the improvement of petroleum quality and motor fuel inspection capabilities ..... 27.7 percent

The funds appropriated by this paragraph shall be used for upgrading and modernizing the petroleum quality and fuel inspection instruments and equipment and not for training or additional staff.

d. To the energy policy council to establish a loan assistance program for energy conservation projects ..... 9.1 percent

e. To the energy policy council for the administration costs resulting from this Act and the consent decrees ..... 5.0 percent

2. The appropriations made by subsection 1, except for paragraph "b", are for the fiscal year beginning July 1, 1985 and ending June 30, 1986. The revolving loan fund established by paragraph "b" shall not revert at the conclusion of the fiscal year.

3. The energy policy council shall adopt rules to establish the loan assistance program for energy conservation projects.

4. The department of transportation shall adopt rules to establish a revolving loan fund for rural and community-based transportation systems.

5. The expenditures made with funds appropriated by this Act shall be in accordance with the plan for distribution of petroleum overcharge funds or any portion of it submitted by the state and approved by the United States department of energy. The energy policy council shall coordinate the reports of all agencies receiving funds under this section as to the expenditure of those funds and file a postplan report with the United States department of energy.

Sec. 2. Notwithstanding section 8.33, all unencumbered or unobligated money remaining from the funds which were apportioned to this state under Pub. L. No. 97-377 and which were appropriated under 1983 Iowa Acts, chapter 207, sections 3, 4, and 5, under 1983 Iowa Acts, chapter 202, section 21, and under 1984 Iowa Acts, chapter 1313, section 2, as well as any interest accrued in the petroleum overcharge fund through June 30, 1985 are appropriated to the energy policy council to continue the programs established under 1983 Iowa Acts, chapter 207, sections 3, 4, and 5, as amended by this Act and under 1983 Iowa Acts, chapter 202, section 21, during the fiscal year beginning July 1, 1985.

Sec. 3. 1983 Iowa Acts, chapter 207, section 5, subsection 1, paragraph c, is amended by striking the paragraph.

Sec. 4. 1983 Iowa Acts, chapter 207, section 5, subsection 1, paragraph e, is amended to read as follows:

e. For grants to local governments, except hospitals and school districts, for energy conservation improvements including the installation of utility meters to monitor energy use in government-owned buildings ..... 47 53 percent

Approved May 16, 1985

**CHAPTER 266**  
**SUPPLEMENTAL APPROPRIATION**  
*H.F. 777*

**AN ACT** relating to certain state funds by making a supplemental appropriation to the Iowa beer and liquor control department and allowing interest from the investment of certain employee insurance funds to be deposited to those funds.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1985 and ending June 30, 1986 to the Iowa beer and liquor control department the sum of three hundred nine thousand (309,000) dollars, or so much thereof as may be necessary, for salaries, support, maintenance and other operational purposes. This appropriation is in addition to any other appropriation made to the Iowa beer and liquor control department for the fiscal year beginning July 1, 1985 and ending June 30, 1986.

Sec. 2. Section 509A.5, unnumbered paragraph 2, Code 1985, is amended to read as follows:

Any interest earnings from investments or time deposits of the funds under the control of the state executive council and deposited in the health insurance premium operating fund, the health insurance premium reserve fund, and the life insurance premium operating fund used for the payment of health and life insurance premiums shall be deposited to the credit of these funds.

Approved May 29, 1985

**CHAPTER 267**  
**APPROPRIATIONS FOR CAPITAL PROJECTS**  
*S.F. 575*

**AN ACT** relating to and making appropriations to state agencies for capital projects and providing that part of the Act takes effect upon publication.

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

Section 1. There is appropriated from the general fund of the state to the following state agencies for the fiscal year beginning July 1, 1985, and ending June 30, 1986 the following amounts, or so much thereof as is necessary, to be used in the manner designated:

		<u>1985-1986</u> <u>Fiscal Year</u>
<b>1. DEPARTMENT OF HUMAN SERVICES</b>		
For capital improvements, including engineering analysis and design of mechanical and electrical system improvements, at the various institutions under the control of the department .....	\$	1,000,000
<b>2. IOWA STATE HISTORICAL DEPARTMENT</b>		
a. For the purchase of property adjacent to the gravesite at Gardner cabin .....	\$	30,000
b. For capital improvements for the Matthew Edel blacksmith shop in Haverhill, Iowa referred to in House Concurrent Resolution 107 adopted during the 1984 Session of the Seventieth General Assembly .....	\$	20,000
<b>3. DEPARTMENT OF CORRECTIONS</b>		
For capital improvements at the various institutions under the control of the department .....	\$	500,000
<b>4. STATE CONSERVATION COMMISSION</b>		
For general maintenance capitals .....	\$	300,000
<b>5. DEPARTMENT OF GENERAL SERVICES</b>		
For renovation of the Robert Lucas building .....	\$	200,000
<b>6. COMMISSION FOR THE BLIND</b>		
For beginning the installation of a fire sprinkler system .....	\$	63,000

Sec. 2. There is appropriated from the general fund of the state to the state conservation commission on the effective date of this Act the sum of forty-three thousand five hundred fifty-four dollars and twenty-seven cents (\$43,554.27) or so much as is necessary to pay the drainage assessment and interest for the closed tile drain work at Lake Cornelia of drainage district 14, subdistrict 3, in Wright county. An amount equal to the amount expended pursuant to this section shall be subtracted from the funds appropriated to the state conservation commission under 1985 Iowa Acts, House File 225, section 301, subsection 3, paragraph "a", and deposited in the general fund of the state by the state comptroller.

Sec. 3. Section 455.50, unnumbered paragraphs 3 and 4, Code 1985, are amended to read as follows:

When any state-owned lands under the jurisdiction of the state conservation commission are situated within a levee or drainage district, the commissioners to assess benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to such lands and the board of supervisors shall assess the same against such lands. However, the commissioners shall not assess benefits to property below the ordinary high water mark in a sovereign state-owned lake, marsh or stream under the jurisdiction of the state conservation commission.

~~Such~~ The assessments against lands used by the fish and game division under the jurisdiction of the state conservation commission shall may be paid by the ~~state conservation commission from the state fish and game protection fund~~ executive council on ~~due~~ certification of the amount by the county treasurer ~~to said commission, and against lands used by the division of lands and waters from the state conservation funds.~~ There is appropriated from any funds in the general fund not otherwise appropriated amounts sufficient to pay the certified assessments.

Sec. 4. This Act, being deemed of immediate importance, except sections 1 and 3 which take effect July 1 following enactment, takes effect from and after its publication in The Cascade Pioneer-Advertiser, a newspaper published in Cascade, Iowa, and in The Guttenberg Press, a newspaper published in Guttenberg, Iowa.

Approved May 31, 1985

I hereby certify that the foregoing Act was published in The Guttenberg Press, Guttenberg, Iowa on June 12, 1985 and in The Cascade Pioneer-Advertiser, Cascade, Iowa on June 13, 1985.

MARY JANE ODELL, *Secretary of State*



**CHAPTER 268**  
**FEDERAL BLOCK GRANT APPROPRIATIONS**  
*S.F. 585*

**AN ACT** appropriating federal funds made available from federal block grants, allocating portions of federal block grants, and providing procedures if federal funds are more or less than anticipated or if federal block grants are more or less than anticipated or if categorical grants are consolidated into new or existing block grants.

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

**DIVISION I**

**Section 1. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES APPROPRIATION.**

1. There is appropriated from the fund created by section 8.41 to the department of substance abuse, two million nine hundred thirty-six thousand (2,936,000) dollars for the federal fiscal year beginning October 1, 1985. Funds appropriated by this section are the anticipated funds to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title IX, Subtitle A, and Pub. L. No. 97-414 which provides for the alcohol and drug abuse and mental health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Seventeen and eight-tenths percent of the funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of human services and allocated for community mental health centers. Of this amount, ten percent must be used to initiate new mental services for severely disturbed children and adolescents and new comprehensive community mental health programs for unserved areas or underserved populations.

3. An amount not exceeding two hundred ninety-three thousand six hundred (293,600) dollars of the funds appropriated in subsection 1 shall be used by the department of substance abuse for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department of substance abuse shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department of substance abuse for the costs of the audit.

4. Five percent of the funds appropriated in subsection 1 shall be used to initiate and provide new alcohol and drug abuse services to women.

5. After deducting the funds allocated in subsections 2, 3, and 4 the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the department of substance abuse:

- a. Drug abuse programs ..... 38.89 percent
- b. Alcohol abuse programs ..... 38.89 percent
- c. Alcohol and drug prevention programs ..... 22.22 percent

**Sec. 2. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, the sum of five million four hundred sixty thousand six hundred seventy-two (5,460,672) dollars for the federal fiscal year beginning October 1, 1985. The funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XXI, Subtitle D, as amended, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Sixty-three percent of the funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the personal and family health division of the state department of health. Of these funds, forty-eight thousand seven hundred twenty (48,720) dollars shall be set aside for sudden infant death syndrome, twenty-five thousand (25,000) dollars shall be set aside for a lead poisoning prevention program, and two hundred eight thousand nine hundred fifty (208,950) dollars shall be set aside for the statewide perinatal care program.

Thirty-seven percent of the funds appropriated in subsection 1 shall be transferred to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics.

3. An amount not exceeding one hundred twenty-two thousand thirty (122,030) dollars of the funds allocated in subsection 2 to the state department of health shall be used by the state department of health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the state department of health shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state department of health's portion of the funds allocated in subsection 2. The auditor of state shall bill the state department of health for the costs of the audit.

It is the intent of the general assembly that the departments of health, human services, and public instruction and the university of Iowa's mobile and regional child health specialty clinics continue to pursue to the maximum extent feasible the coordination and integration of services to women and children in selected pilot areas. It is expected that these agencies prepare a progress report for the general assembly indicating objectives accomplished and barriers encountered in the pursuit of these integration efforts.

4. Those federal maternal and child health services block grant funds transferred from the federal preventive health and health services block grant funds under section 3, subsection 4, of this Act for the federal fiscal year beginning October 1, 1986, are transferred to the division of personal and family health for maternal and child health programs and to the university of Iowa's mobile and regional child health specialty clinics according to the percentages specified in section 2, subsection 2, of this Act.

**Sec. 3. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the state department of health, one million forty-seven thousand four hundred ninety-five (1,047,495) dollars for the federal fiscal year beginning October 1, 1985. Funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title IX, Subtitle A, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding one hundred thousand three hundred seventeen (100,317) dollars of the funds appropriated in subsection 1 shall be used by the state department of health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the state department of health shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the state department of health for the costs of the audit.

3. Of the funds appropriated in subsection 1, the specific amount of funds required by Pub. L. No. 97-35, Title IX, Subtitle A, shall be allocated to the rape prevention program.

4. Pursuant to Pub. L. No. 97-35, Title IX, Subtitle A, as amended, seven percent of the funds appropriated in subsection 1 is transferred within the special fund in the state treasury established under section 8.41, for use by the state department of health as authorized by Pub. L. No. 97-35, Title XXI, Subtitle D, as amended, and section 2 of this Act.

5. After deducting the funds allocated and transferred in subsections 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the following divisions of the state department of health:

a. Disease prevention division for hypertension grants .....	15.2 percent
b. Disease prevention division for risk reduction services .....	21.0 percent
c. Community health division and disease prevention division for health incentive grants .....	17.9 percent
d. Community health division for emergency medical services .....	30.0 percent
e. Personal and family health division for fluoridation grants .....	15.9 percent

#### DIVISION II

##### Sec. 4. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the office for planning and programming, the sum of three million seven hundred sixty-eight thousand six hundred (3,768,600) dollars for the federal fiscal year beginning October 1, 1985. Funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title VI, Subtitle B, which provides for the community services block grant. The office for planning and programming shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The director of the office for planning and programming shall allocate not less than ninety percent of the amount of the block grant to programs benefiting low-income persons based upon the size of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state. The director of the office for planning and programming after consultation with community action agencies shall allocate an amount not exceeding five percent of the amount of financial assistance based upon other measures of need in each community action area.

2. An amount not exceeding five percent of the funds appropriated in subsection 1 for the federal fiscal year beginning October 1, 1985 shall be used by the office for planning and

programming for administrative expenses. From the funds set aside by this subsection for administrative expenses, the office for planning and programming shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the office for planning and programming for the costs of the audit.

Sec. 5. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the office for planning and programming, the sum of twenty-four million nine hundred twenty thousand (24,920,000) dollars for the federal fiscal year beginning October 1, 1985. Funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title III, Subtitle A, which provides for the community development block grant. The office for planning and programming shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding nine hundred ninety-one thousand (991,000) dollars for the federal fiscal year beginning October 1, 1985 shall be used by the office for planning and programming for administrative expenses for the community development block grant. The total amount used for administrative expenses includes four hundred ninety-five thousand five hundred (495,500) dollars for the federal fiscal year beginning October 1, 1985 of funds appropriated in subsection 1 and a matching contribution from the state equal to four hundred ninety-five thousand five hundred (495,500) dollars from the appropriation of state funds for the community development block grant and state appropriations for related activities of the office for planning and programming. The total administrative expenses at the state level, from both federal and state sources, shall not exceed four percent of the amount appropriated in subsection 1. From the funds set aside for administrative expenses by this subsection, the office for planning and programming shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the office for planning and programming for the costs of the audit.

DIVISION III

Sec. 6. EDUCATION APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of public instruction for the fiscal year beginning July 1, 1985 and ending June 30, 1986, the amount received from Pub. L. No. 97-35, Title V, Subtitle D, chapter 2, not to exceed five million nine hundred fifty thousand (5,950,000) dollars, which provides for the education block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Twenty percent of the funds appropriated in subsection 1, not to exceed one million one hundred ninety thousand (1,190,000) dollars, shall be used by the department for basic skills development, state leadership and support services, educational improvement and support services, special projects, and state administrative expenses and auditing. However, not more than two hundred twenty-five thousand (225,000) dollars shall be used by the department for state administrative expenses.

3. Eighty percent of the funds appropriated in subsection 1 shall be allocated by the department to local educational agencies in this state, as local educational agency is defined in Pub. L. No. 97-35, Title V, Subtitle D. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments:

a. Seventy-five percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. Twenty percent shall be allocated on the basis of the number of disadvantaged children in local educational agencies whose incidence ratio for disadvantaged children is above the state average incidence ratio.

c. Five percent shall be allocated on the basis of the number of limited English speaking children whose language imposes a barrier to learning.

Sec. 7. Funds appropriated in section 6 of this Act shall not be used to aid schools or programs that illegally discriminate in employment or educational programs on the basis of sex, race, color, national origin, or disability.

#### DIVISION IV

##### Sec. 8. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the energy policy council, the sum of thirty-six million seven hundred nineteen thousand eight hundred (36,719,800) dollars for the fiscal year beginning October 1, 1985. The funds appropriated by this section are the funds anticipated to be received from the federal government for the designated federal fiscal years under Pub. L. No. 97-35, Title XXVI, as amended by Pub. L. No. 98-558, which provides for the low-income home energy assistance block grants. The energy policy council shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding two million eight hundred ninety-two thousand (2,892,000) dollars or nine percent of the funds appropriated in subsection 1, whichever is less, may be used for administrative expenses, not more than two hundred ninety thousand (290,000) dollars of which shall be used for administrative expenses of the energy policy council. From the total funds set aside by this subsection for administrative expenses, an amount sufficient to pay the cost of an audit of the use and administration of the state's portion of the funds appropriated is allocated for that purpose. The auditor shall bill the energy policy council for the costs of the audit.

3. The remaining funds appropriated in this section shall be allocated to help eligible households, as defined in accordance with Pub. L. No. 97-35, as amended by Pub. L. No. 98-558, to meet the costs of home energy. After reserving a reasonable portion of the funds not to exceed one million (1,000,000) dollars to carry forward into the federal fiscal year beginning October 1, 1986, at least ten percent and not more than fifteen percent of the funds appropriated by this section shall be used for low-income residential weatherization or other related home repairs for low-income households.

4. An eligible household must be willing to allow residential weatherization or other related home repairs in order to receive home energy assistance. If the eligible household resides in rental property, the unwillingness of the landlord to allow residential weatherization or other related home repairs shall not prevent the household from receiving home energy assistance.

#### DIVISION V

##### Sec. 9. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services, the sum of thirty-three million six hundred eighty-eight thousand seventeen (33,688,017) dollars for the fiscal year beginning October 1, 1985. Funds appropriated by this subsection are the funds, other than the funds appropriated in subsection 4, anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XXIII, Subtitle C, as codified in 42 U.S.C. sections 1397-1397f, which provides for the social services block grant. The department of human services shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than one million nine hundred forty-two thousand seven hundred eight (1,942,708) dollars of the funds appropriated in subsection 1 shall be used by the department of human services for general administration for the federal fiscal year beginning October 1, 1985. From the funds set aside by this subsection for general administration, the department of human services shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department of human services for the costs of the audit.

3. In addition to the allocation for general administration in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for the federal fiscal year beginning October 1, 1985 for the following programs within the department of human services:

	1985-1986 Federal Fiscal Year
a. Field operations .....	\$ 13,306,852
b. Home-based services .....	\$ 155,791
c. Foster care .....	\$ 4,935,799
d. Community-based services .....	\$ 790,479
e. Local administrative costs and other local services .....	\$ 12,421,424
f. Volunteers .....	\$ 134,964

4. There is appropriated from the special block grant fund created by section 8.41 to the department of human services, the sum of one hundred fifty-five thousand nine hundred sixty-three (155,963) dollars, or so much thereof as is actually allotted by and available from the federal government for the fiscal year beginning October 1, 1985 for child care provider training under the social services block grant pursuant to Pub. L. No. 98-473, Title IV, section 401. The state comptroller shall separately account for these funds. The department of human services shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A. Notwithstanding section 8.33, the funds appropriated by this subsection shall not revert to the special block grant fund of the state on September 30, 1986, but shall be available for expenditure by the department until September 30, 1987, after which the unencumbered or unobligated funds shall revert to the special block grant fund of the state.

Sec. 10. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each fiscal year shall develop a plan for the use of federal social services block grant funds for the subsequent state fiscal year.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

#### DIVISION VI

##### Sec. 11. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 6 and section 9, subsection 4 of this Act, if the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 3, subsection 3, of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the standing committees of the senate and house on appropriations, the director of the legislative fiscal bureau, and the appropriate chairpersons and ranking members of subcommittees of those committees shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

##### Sec. 12. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, and 6, subsection 3, of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If funds received from the federal government from block grants exceed the amounts appropriated in section 5 of this Act, one hundred percent of the excess is appropriated to the community development block grant program. Not more than two percent of the excess may be used for additional administrative expenses if the amount or any portion of it is equally matched by the current state appropriation for related activities of the office for planning and programming.

3. If funds received from the federal government in the form of block grants exceed the amounts appropriated in section 6, subsection 2, of this Act, the excess shall be deposited in the special fund created in section 8.41 and is subject to appropriation by the general assembly.

4. If funds received from the federal government from block grants exceed the amounts appropriated in section 8 of this Act, at least ten percent and not more than fifteen percent of the excess shall be allocated to the low-income weatherization program.

5. If funds received from the federal government in the form of block grants exceed the amounts appropriated in section 1 and section 9, subsection 1 of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

6. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 4 of this Act, one hundred percent of the excess is allocated to the community services block grant program.

Sec. 13. PROCEDURE FOR CONSOLIDATED, CATEGORICAL, OR EXPANDED FEDERAL BLOCK GRANTS. Notwithstanding section 8.41, federal funds made available to the state which are authorized for the federal fiscal year beginning October 1, 1985 resulting from the federal government consolidating former categorical grants into block grants, or which expand block grants included in Pub. L. No. 97-35, to include additional programs formerly funded by categorical grants, which are not otherwise appropriated by the general assembly, are appropriated for the programs formerly receiving the categorical grants, subject to the conditions of this section. The governor shall, whenever possible, allocate from the block grant to each program in the same proportion as the amount of federal funds received by the program during the 1985 federal fiscal year as modified by the 1985 Session of the Seventy-first General Assembly for the fiscal year beginning July 1, 1985 compared to the total federal funds received in the 1985 federal fiscal year by all programs consolidated into the block grant. However, if one agency did not have categorical funds appropriated for the federal fiscal year ending September 30, 1985 but had anticipated applying for funds during the fiscal year ending September 30, 1986, the governor may allocate the funds in order to provide funding.

If the amount received in the form of a consolidated or expanded block grant is less than the total amount of federal funds received for the programs in the form of categorical grants for the 1985 federal fiscal year, state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house committees on appropriations, the legislative fiscal director, and the appropriate chairpersons and ranking members of the subcommittees of those committees before making the allocation of federal funds or any proportional reduction of state funds under this section. The notice shall state the amount of federal funds to be allocated to each program, the amount of federal funds received by the program during the 1985 federal fiscal year, the amount by which state funds for the program will be reduced according to this section and the amount of state funds received by the program during the 1985 fiscal year. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

If the amount received in the form of a consolidated or expanded block grant is more than the total amount of federal funds received for the programs in the form of categorical grants for the 1985 federal fiscal year, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

Sec. 14. 1983 Iowa Acts, chapter 194, section 16, subsection 2, is amended to read as follows:

2. If funds received from the federal government in the form of block grants exceed the amounts appropriated in ~~sections~~ section 7, 8 and section 9, subsection 2 of this Act, the excess shall be deposited in the special fund created in section 8.41 and is subject to appropriation by the general assembly.



Sec. 15. 1983 Iowa Acts, chapter 194, section 16, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If funds received from the federal government from community development block grants exceed the amounts appropriated in section 8 of this Act, one hundred percent of the excess is allocated to the community development block grant program. Not more than two percent of the excess may be used for additional administrative expenses if the amount is equally matched by the state appropriation for related activities of the office for planning and programming.

Sec. 16. 1984 Iowa Acts, chapter 1311, section 1, subsections 1, 2, and 3, are amended to read as follows:

1. There is appropriated from the fund created by section 8.41 to the department of substance abuse, ~~two million two hundred ninety-two thousand (2,292,000)~~ two million nine hundred thirty-six thousand (2,936,000) dollars for the federal fiscal year beginning October 1, 1984, and ending September 30, 1985. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1985 under Pub. L. No. 97-35, Title IX, Subtitle A, as amended, which provides for the alcohol and drug abuse and mental health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding ~~two hundred seventeen thousand (217,000)~~ two hundred thirty-seven thousand (237,000) dollars of the funds appropriated in subsection 1 shall be used by the department of substance abuse for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department of substance abuse shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department of substance abuse for the costs of the audit.

3. ~~Eight and seventy-five hundredths~~ Seventeen and eight-tenths percent of the funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of human services and allocated for community mental health centers.

Sec. 17. 1984 Iowa Acts, chapter 1311, section 10, subsection 1, is amended to read as follows:

1. There is appropriated from the fund created by section 8.41 to the department of human services, thirty-three million nine hundred forty-four thousand four hundred ninety-one (33,944,491) dollars for the federal fiscal year beginning October 1, 1984 and ending September 30, 1985. Funds appropriated by this section are the funds, other than the funds appropriated in subsection 5, anticipated to be received from the federal government for the federal fiscal year 1985 under Pub. L. No. 97-35, Title XXIII, Subtitle C, as codified in 42 U.S.C. secs. 1397-1397f, which provides for the social services block grant. The department of human services shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 18. 1984 Iowa Acts, chapter 1311, section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 5. There is appropriated from the special block grant fund created by section 8.41 to the department of human services, one hundred fifty-five thousand nine hundred sixty-three (155,963) dollars, or so much thereof as is actually allotted by and available from the federal government for the fiscal year beginning October 1, 1984 for child

care provider training under the social services block grant pursuant to Pub. L. No. 98-473, Title IV, section 401. The state comptroller shall separately account for these funds. The department of human services shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A. Notwithstanding section 8.33, the funds appropriated by this subsection shall not revert to the special block grant fund of the state on September 30, 1985, but shall be available for expenditure by the department until September 30, 1986, after which the encumbered or unobligated funds shall revert to the special block grant fund of the state.

Sec. 19. 1984 Iowa Acts, chapter 1311, section 12, subsection 1, is amended to read as follows:

1. Except for section 7 and section 10, subsection 5 of this Act, if the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 4, subsection 3 of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

Sec. 20. 1984 Iowa Acts, chapter 1311, section 13, subsection 2, is amended to read as follows:

2. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 5, 6 and section 7, subsection 2 of this Act, the excess shall be deposited in the special fund created in section 8.41 and is subject to appropriation by the general assembly.

Sec. 21. 1984 Iowa Acts, chapter 1311, section 13, subsection 4, is amended to read as follows:

4. If funds received from the federal government from the social services block grant exceed the amount appropriated in section 10, subsection 1 of this Act, the excess shall be allocated for the purchase of local services and the department of human services may waive the requirement of local matching funds.

Sec. 22. 1984 Iowa Acts, chapter 1311, section 13, is amended by adding the following new subsections:

**NEW SUBSECTION.** 5. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 5 of this Act, one hundred percent of the excess is allocated to the community services block grant program.

**NEW SUBSECTION.** 6. If funds received from the federal government from community development block grants exceed the amounts appropriated in section 6 of this Act, one hundred percent of the excess is allocated to the community development block grant program. Not more than two percent of the excess may be used for additional administrative expenses if the amount is equally matched by the state appropriation for related activities of the office for planning and programming.

Approved May 31, 1985

**CHAPTER 269****TIME ACTS OF THE GENERAL ASSEMBLY TAKE EFFECT***Second Time Passed S.J.R. 3*

**A JOINT RESOLUTION** proposing an amendment to the Constitution of the State of Iowa to allow the General Assembly to specify by law when Acts of the General Assembly take effect.

*Be It Resolved by the General Assembly of the State of Iowa:*

Section 1. The following amendment to the Constitution of the State of Iowa is proposed: Section 26 of Article III of the Constitution of the State of Iowa, as amended by the Amendment of 1966, is repealed and the following adopted in lieu thereof:

"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."

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Seventieth General Assembly, 1984 Session, thereafter duly published, and now adopted and agreed to by the Seventy-first General Assembly in this joint resolution, shall be submitted to the people of the state of Iowa at the general election in November of the year nineteen hundred eighty-six in the manner required by the Constitution of the State of Iowa and the laws of the state of Iowa.

**RULES OF CIVIL PROCEDURE**

**CHAPTER 270**  
**RULES OF CIVIL PROCEDURE**

IN THE MATTER OF CHANGES IN  
RULES OF CIVIL PROCEDURE

}

REPORT OF THE  
SUPREME COURT

TO: SERGE H. GARRISON, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE  
STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Civil Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules and forms are to take effect 60 days after the date of this report.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
July 18, 1984

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the eighteenth day of July, 1984, of the Report of the Supreme Court pertaining to Rules of Civil Procedure.

/s/ Serge H. Garrison

Secretary of the Legislative Council

## EXHIBIT "A"

319. Limitation. No writ of certiorari shall issue or be sustained unless the petition is filed  
The petition must be filed within thirty days from the time the inferior tribunal, board or  
officer exceeded its jurisdiction or otherwise acted illegally. An extension of such time,  
however, may be allowed by the reviewing court upon a showing that failure to file the peti-  
tion within the time provided was due to a failure of the tribunal, board or officer to notify the  
petitioner of the action complained of. Any motion for extension of time shall, within ninety  
days of the action complained of, be filed with the clerk of the court in which the writ of cer-  
tiorari is sought. The motion and any resistance may be supported by copies of relevant por-  
tions of the record of the proceedings complained of, and by affidavits, and no other form of  
evidence will be received.

**CHAPTER 271**  
**RULES OF CIVIL PROCEDURE**

IN THE MATTER OF CHANGES IN  
 RULES OF CIVIL PROCEDURE

}

REPORT OF THE  
 SUPREME COURT

TO: THE HONORABLE DONALD V. DOYLE, CHAIR OF THE SENATE JUDICIARY  
 COMMITTEE OF THE 1984 REGULAR SESSION OF THE SEVENTIETH  
 GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Senate Judiciary Committee the attached Exhibit A, constituting changes in Rules of Civil Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules and forms are to take effect 60 days after the date of this report.

Respectfully submitted,  
 THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
 September 5, 1984

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on the fifth day of September, 1984, of the Report of the Supreme Court pertaining to Rules of Civil Procedure.

/s/ Donald V. Doyle

Chair of the Senate Judiciary Committee of  
 the 1984 Regular Session of the Seventieth  
 General Assembly

## EXHIBIT "A"

Rule 178.1. Reporter's fee -- small cases. No court reporter shall be provided in the trial of actions when the amount in controversy as shown by the pleadings is less than ~~one~~ two thousand dollars, unless the party demanding one shall pay the clerk in advance the taxable fee of the reporter for one day, at the beginning of each day. Amounts so paid shall be taxed as costs in the case, unless otherwise ordered by the court.

Rule 196. Instructions. The court shall instruct the jury as to the law applicable to all material issues in the case and such instructions shall be in writing, in consecutively numbered paragraphs, and shall be read to the jury without comment or explanation; provided, however, that in actions triable to a jury where the amount in controversy as shown by the pleadings is less than ~~one~~ two thousand dollars, and in any action where the parties so agree, the instructions may be oral. At the close of the evidence, or such prior time as the court may reasonably fix, any party may file written requests that the jury be instructed as set forth in such requests. Before argument to the jury begins, the court shall furnish counsel with a preliminary draft of instructions which it expects to give on all controversial issues, which shall not be part of the record. Before jury arguments, the court shall give to each counsel a copy of its instructions in their final form, noting this fact of record and granting reasonable time for counsel to make objections, which shall be made and ruled on before arguments to the jury. Within such time, all objections to giving or failing to give any instruction must be made in writing or dictated into the record, out of the jury's presence, specifying the matter objected to and on what grounds. No other grounds or objections shall be asserted thereafter, or considered on appeal. But if the court thereafter revises or adds to the instructions, similar specific objection to the revision or addition may be made in the motion for new trial, and if not so made shall be deemed waived. All instructions and objections, except as above provided, shall be part of the record.

**CHAPTER 272**  
**RULES OF CIVIL PROCEDURE**

IN THE MATTER OF CHANGES IN  
 RULES OF CIVIL PROCEDURE

}

REPORT OF THE  
 SUPREME COURT

TO: SERGE H. GARRISON, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE  
 STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Civil Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules and forms are to take effect 60 days after the date of this report.

Respectfully submitted,  
 THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
 October 9, 1984

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the ninth day of October, 1984, of the Report of the Supreme Court pertaining to Rules of Civil Procedure.

/s/ Serge H. Garrison

Secretary of the Legislative Council



## EXHIBIT "A"

Amend Rule 140, Iowa Rules of Civil Procedure, as follows:

140. Depositions upon oral examination.

(a) When depositions may be taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of ten days after the date for special appearance, motion or answer for any defendant, except that leave is not required:

(1) If a defendant has served a notice of taking deposition or otherwise sought discovery, or

(2) If special notice is given as provided in subdivision "b"(2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in R.C.P. 155. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(b) Notice of examination--general requirements--special notice--nonstenographic recording--production of documents and things--deposition of organization.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify ~~him~~ the person or the particular class or group to which ~~he~~ the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice

(A) States that the person to be examined is about to go out of the state and will be unavailable for examination unless ~~his~~ the person's deposition is taken before expiration of the thirty-day period, and

(B) Sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and ~~his~~ the attorney's signature constitutes a certification by ~~him~~ the attorney that to the best of ~~his~~ the attorney's knowledge, information, and belief the statement and supporting facts are true.

If a party shows that ~~when he was upon~~ being served with notice under this subdivision "b"(2) ~~he~~ the party was unable through the exercise of diligence to obtain counsel to represent him or her at the taking of the deposition, the deposition may not be used against ~~him~~ that party.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at ~~his~~ that party's own expense. Leave of court is not required to record testimony by nonstenographic means if the deposition is also to be recorded stenographically.

(5) The notice to a party deponent may be accompanied by a request made in compliance with R.C.P. 129 and 130 for the production of documents and tangible things at the taking of the deposition. The procedure of R.C.P. 130 shall apply to the request.

(c) Failure to attend or to serve subpoena—expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by ~~him~~ the other party and ~~his~~ the other party's attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon ~~him~~ the witness and the witness does not attend because of such failure, and if another party attends in person or by attorney because ~~he~~ such other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by ~~him~~ the other party and ~~his~~ the other party's attorney attending, including reasonable attorney's fees.

Amend Rule 215, Iowa Rules of Civil Procedure, as follows:

215. Voluntary dismissal. A party may, without order of court, dismiss ~~his~~ that party's own petition, counterclaim, cross-petition or petition of intervention, at any time before the trial has begun, subject to the provisions of R.C.P. ~~138.1~~ 181.4. Thereafter a party may dismiss ~~his~~ an action or his that party's claim therein only by consent of the court which may impose such terms or conditions as it deems proper; and it shall require the consent of any other party asserting a counterclaim against the movant, unless that will still remain for an independent adjudication. A dismissal under this rule shall be without prejudice, unless otherwise stated; but if made by any party who has previously dismissed an action against the same defendant, in any court of any state or of the United States, including or based on the same cause, such dismissal shall operate as an adjudication against ~~him~~ that party on the merits, unless otherwise ordered by the court, in the interests of justice.

Amend Rule 326, Iowa Rules of Civil Procedure, as follows:

326. Notice. Before granting a temporary injunction, the court may require reasonable notice of the time and place of hearing therefor to be given the party to be enjoined. Such notice and hearing must be had for a temporary injunction or stay of agency action pursuant to Iowa Code section 17A.19(5), to stop the general and ordinary business of a corporation, or action of an agency of the state of Iowa, or the operations of a railway or of a municipal corporation, or the erection of a building or other work, or the board of supervisors of a county, or to restrain a nuisance.

**CHAPTER 273**  
**RULES OF CIVIL PROCEDURE**

IN THE MATTER OF CHANGES IN  
 RULES OF CIVIL PROCEDURE

}

REPORT OF THE  
 SUPREME COURT

TO: BURNETTE E. KOEBERNICK, ACTING SECRETARY OF THE LEGISLATIVE  
 COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Civil Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules are to take effect on July 1, 1985.

Respectfully submitted,  
 THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
 February 21, 1985

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-first day of February, 1985, of the Report of the Supreme Court pertaining to Rules of Civil Procedure.

/s/ Burnette E. Koebornick

Acting Secretary of the Legislative Council

EXHIBIT "A"  
RULES OF CIVIL PROCEDURE

196. Instructions. The court shall instruct the jury as to the law applicable to all material issues in the case and such instructions shall be in writing, in consecutively numbered paragraphs, and shall be read to the jury without comment or explanation; provided, however, that in actions triable to a jury where the amount in controversy as shown by the pleadings is less than two thousand dollars, and in any action where the parties so agree, the instructions may be oral. At the close of the evidence, or such prior time as the court may reasonably fix, any party may file written requests that the jury be instructed as set forth in such requests. Before argument to the jury begins, the court shall furnish counsel with a preliminary draft of instructions which it expects to give on all controversial issues, which shall not be part of the record. Before jury arguments, the court shall give to each counsel a copy of its instructions in their final form, noting this fact of record and granting reasonable time for counsel to make objections, which shall be made and ruled on before arguments to the jury. Within such time, all objections to giving or failing to give any instruction must be made in writing or dictated into the record, out of the jury's presence, specifying the matter objected to and on what grounds. No other grounds or objections shall be asserted thereafter, or considered on appeal. But if the court thereafter revises or adds to the instructions, similar specific objection to the revision or addition may be made in the motion for new trial, and if not so made shall be deemed waived. All instructions and objections, except as above provided, shall be part of the record. Nothing in these rules shall prohibit the court from reading to the jury one or more of the final instructions at any stage of the trial, provided that counsel for all parties has been given an opportunity to review the instructions being read and to make objections as provided in this rule. Any instructions read prior to conclusion of the evidence shall also be included in the instructions read to the jury following conclusion of the evidence.

203. Rendering verdict and answering interrogatories.

(a) Number. Before a general verdict, special verdicts, or answers to interrogatories are returned, the parties may stipulate that the finding may be rendered by a stated majority of the jurors. In the absence of such stipulation, a general verdict, special verdicts, or answers to interrogatories must be rendered unanimously. However, a general verdict, special verdict, or answers to interrogatories may be rendered by all jurors excepting one of the jurors if the jurors have deliberated for a period of not less than six hours after the issues to be decided have been submitted to them.

(b) Return-poll. The jury agreeing on a general verdict, special verdicts, or answers to interrogatories shall bring the finding into court where it shall be read to the jury and inquiry made if it is the jury's finding. A party may then require a poll, whereupon the court or clerk shall ask each juror if it is his or her finding. If the required number of jurors do not express agreement, the jury shall be sent out for further deliberation; otherwise, the finding is complete and, unless otherwise provided by law, the jury shall be discharged.

(c) Sealed. When, by consent of the parties and the court, the jury has been permitted to seal its finding and separates before it is rendered, such sealing is equivalent to a rendition and a recording thereof in open court, and such jury shall not be polled or permitted to disagree with respect thereto.

205. Special verdicts. The court may require that the verdict consist wholly of special written findings on each issue of fact. It shall then submit in writing questions susceptible of categorical or brief answers, or forms of several special findings that the jury might properly make under the issues and evidence, or submit the issues and require the findings in any other appropriate manner. It shall so instruct the jury as to enable it to find upon each issue submitted. If the submission omits any issue of fact, any party not demanding submission of such issue before the jury retires waives jury trial thereof, and the court may find upon it; failing which, it shall be deemed found in accord with the judgment on the special verdict. The court shall direct such judgment on the special verdict and answers as is appropriate thereto. Special interrogatories under Iowa Code chapter 668 shall be treated as special verdicts for purposes of these rules.

239. On motion in other cases.

(a) Judgments may be obtained on motion by sureties against principals or cosureties for money due because paid by them as such; by clients against attorneys, by plaintiffs in execution against sheriffs, constables or other officers for money or property collected by them, ~~and for damages~~; and in all other cases specially authorized by statute.

(b) A judgment for contribution based on comparative fault may be obtained on motion (1) only where the basis for such judgment has been established by findings of fact previously made by the court or jury in the action in which the motion is filed, and (2) only by or against the persons who were parties to that action at the time said findings were made.

(c) A motion for contribution permitted by this rule may be filed after final judgment has been entered in the action and the pendency of an appeal shall not deprive the court of jurisdiction to consider same.

(d) A judgment for contribution on motion, where permitted under this rule, may be in the form of a declaratory judgment conditioned upon the future satisfaction by a party of one or more of the judgments entered in the action.

**RULES OF CRIMINAL PROCEDURE**

**CHAPTER 274**  
**RULES OF CRIMINAL PROCEDURE**

IN THE MATTER OF CHANGES IN  
 RULES OF CRIMINAL PROCEDURE

}

REPORT OF THE  
 SUPREME COURT

TO: BURNETTE E. KOEBERNICK, ACTING SECRETARY OF THE LEGISLATIVE  
 COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Criminal Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules and forms are to take effect on July 1, 1985.

Respectfully submitted,  
 THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
 February 21, 1985

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-first day of February, 1985, of the Report of the Supreme Court pertaining to Rules of Criminal Procedure.

/s/ Burnette E. Koebornick

Acting Secretary of the Legislative Council

EXHIBIT "A"  
RULES OF CRIMINAL PROCEDURE

5(3). Witness names and minutes. The prosecuting attorney shall, at the time of filing such information, ~~endorse or cause to be endorsed thereon the names of the witnesses whose evidence the prosecuting attorney expects to introduce and use on the trial of the same, and shall also file with such information the minutes of evidence of such the witnesses~~ which shall consist of a notice in writing stating the name, place of residence and occupation of each witness upon whose expected testimony the information is based, and a full and fair statement of the witness' expected testimony.

**RULES OF EVIDENCE**

**CHAPTER 275**  
**RULES OF EVIDENCE**

IN THE MATTER OF CHANGES IN  
RULES OF EVIDENCE

}

REPORT OF THE  
SUPREME COURT

TO: BURNETTE E. KOEBERNICK, ACTING SECRETARY OF THE LEGISLATIVE  
COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Evidence, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules are to take effect on July 1, 1985.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
February 21, 1985

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-first day of February, 1985, of the Report of the Supreme Court pertaining to Rules of Evidence.

/s/ Burnette E. Koeberrick

Acting Secretary of the Legislative Council



EXHIBIT "A"  
RULES OF EVIDENCE

Rule 611(c) Leading questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop his that witness' testimony. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions. Ordinarily leading questions should be permitted on cross-examination. Ordinarily, leading questions should be permitted on cross-examination of a hostile or adverse witness only. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 803(18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by that witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admissible admitted, the statements may be read into evidence but may not be received as exhibits.

**FORMS**

**CHAPTER 276**

**APPOINTMENT OF COUNSEL AND FINANCIAL STATEMENTS**

IN THE MATTER OF APPLICATIONS  
FOR APPOINTMENT OF COUNSEL AND  
FINANCIAL STATEMENTS



REPORT OF THE  
SUPREME COURT

TO: BURNETTE E. KOEBERNICK, ACTING SECRETARY OF THE LEGISLATIVE  
COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibits A, B, and C, constituting Applications for Appointment of Counsel and Financial Statements, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these forms are to take effect on July 1, 1985.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson  
W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
February 21, 1985

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-first day of February, 1985, of the Report of the Supreme Court pertaining to Applications for Appointment of Counsel and Financial Statements.

/s/ Burnette E. Koebernick  
Acting Secretary of the Legislative Council

EXHIBIT "A"

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

STATE OF IOWA,

Plaintiff,

v.

Defendant.

Criminal No. \_\_\_\_\_

APPLICATION FOR APPOINTMENT OF COUNSEL AND FINANCIAL STATEMENT

I, \_\_\_\_\_, state that I am accused of the crime of \_\_\_\_\_ and request that the court appoint counsel to represent me at public expense. I realize that I may be required to repay in whole or in part any public funds expended for this purpose. The following financial statement is submitted in support of my application:

Current mailing address: \_\_\_\_\_  
Age: \_\_\_\_\_ Telephone number(s): \_\_\_\_\_  
Marital status: Single \_\_\_ Married \_\_\_ Divorced \_\_\_ Widow(er) \_\_\_  
Name of husband/wife: \_\_\_\_\_ Live with husband/wife Yes \_\_\_ No \_\_\_  
If no, length of physical separation from husband/wife: \_\_\_\_\_  
Number and ages of dependents: \_\_\_\_\_

How long a resident of this county: \_\_\_\_\_  
Occupation: \_\_\_\_\_  
Present employer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Former employer: \_\_\_\_\_  
Address: \_\_\_\_\_  
Weekly take-home (net) earnings: \$ \_\_\_\_\_ Weekly gross earnings \$ \_\_\_\_\_  
Total gross income for past 12 months: \$ \_\_\_\_\_  
Are you now in jail? \_\_\_ Do you have a job to go to? \_\_\_\_\_  
If so, where and at what wages? \_\_\_\_\_

Bank with: \_\_\_\_\_ Address: \_\_\_\_\_  
Balance personal bank account: \$ \_\_\_\_\_  
Balance account in name of husband/wife: \$ \_\_\_\_\_  
Balance joint account with husband/wife: \$ \_\_\_\_\_  
Balance joint account with any other person(s): \$ \_\_\_\_\_

What is your average monthly living expense (clothing, food, housing, transportation, other)? \$ \_\_\_\_\_ Does any person pay all or any portion of these expenses: Yes \_\_\_ No \_\_\_  
If yes, who pays these costs and how much do they contribute? \_\_\_\_\_

Motor vehicles: Give make, year, present value, amount owing thereon, if any, and whether registered or titled in your name, name of husband/wife or jointly with another: \_\_\_\_\_

List all sources of income, in your name, name of husband/wife or jointly shared with another, including salary (net wages), pensions, bonds, stocks, securities, private business, farming, insurance, retirement benefits, social security benefits, lawsuits or settlements or others: \_\_\_\_\_

ADC or welfare relief, if any, in your name, name of husband/wife or jointly shared with another: \_\_\_\_\_

List all sources of public assistance, if any, including ADC, unemployment compensation, heating assistance, food stamps: \_\_\_\_\_

Real estate owned in your name, name of husband/wife or jointly shared with another (describe): \_\_\_\_\_

Other assets in your name, name of husband/wife or jointly shared with another (stereo, TV, furniture, trust funds, notes, bonds, stocks, savings certificates, life insurance, other): \_\_\_\_\_

Value: \$ \_\_\_\_\_

Are you a beneficiary or heir in an estate of a person deceased? \_\_\_\_\_

List all debts or unpaid bills, including money owed for such things as: Housing, food, clothing, transportation (car, gas), utility costs, medical and dental services and other items, be specific: \_\_\_\_\_

Does anyone owe you money or have any property belonging to you? \_\_\_\_\_

Give details in full: \_\_\_\_\_

Do you have a judgment against anyone: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, give name, date, court and amount: \_\_\_\_\_

Are you free on bond: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, name(s) and addresses of sureties: \_\_\_\_\_

If surety company, who paid bond premium: \_\_\_\_\_

Have you or anyone else employed or offered to employ an attorney for you in this matter? Yes \_\_\_\_\_ No \_\_\_\_\_ If so, how much has the attorney been paid by you or for you? \$ \_\_\_\_\_

Who can verify this information: \_\_\_\_\_

Phone number: \_\_\_\_\_ Address: \_\_\_\_\_

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the

foregoing statements are true and correct to the best of my knowledge, and are made in support of my request that the court appoint legal counsel for me because I am financially unable to employ counsel.

\_\_\_\_\_

The State of Iowa:

\_\_\_\_\_ does not object to the appointment of counsel.  
\_\_\_\_\_ objects to the appointment of counsel and requests a hearing on the application.

Dated: \_\_\_\_\_, 19\_\_\_\_\_.

(Assistant \_\_\_\_\_ County Attorney)

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

STATE OF IOWA,

Plaintiff,

v.

\_\_\_\_\_  
Defendant.

Criminal No. \_\_\_\_\_

**ORDER ON APPLICATION FOR  
APPOINTMENT OF COUNSEL AND  
FINANCIAL STATEMENT**

ORDER

Application is set for hearing at \_\_\_\_\_ o'clock a.m./p.m., the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.  
Dated: \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge/Magistrate

ORDER

Defendant's request for appointment of counsel is approved/denied.  
\_\_\_\_\_ is appointed to serve as counsel for the defendant.  
Dated: \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge/Magistrate

EXHIBIT "B"

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

IN THE INTERESTS OF

No. \_\_\_\_\_

APPLICATION FOR APPOINTMENT OF COUNSEL AND FINANCIAL STATEMENT (Juvenile Proceedings)

A Child.

I, \_\_\_\_\_, state that I am the (parent) (guardian) (custodian) of \_\_\_\_\_, a child, and request that the court appoint counsel to represent (me)(the child) at public expense. I realize that I may be required to repay in whole or in part any public funds expended for this purpose. The following financial statement is submitted in support of my application:

Current mailing address: \_\_\_\_\_

Age: \_\_\_\_\_ Telephone number(s): \_\_\_\_\_

Marital status: Single \_\_\_ Married \_\_\_ Divorced \_\_\_ Widow(er) \_\_\_

Name of husband/wife: \_\_\_\_\_ Live with husband/wife Yes \_\_\_ No \_\_\_

If no, length of physical separation from husband/wife: \_\_\_\_\_

Number and ages of dependents: \_\_\_\_\_

How long a resident of this county: \_\_\_\_\_

Occupation: \_\_\_\_\_

Present employer: \_\_\_\_\_

Address: \_\_\_\_\_

Former employer: \_\_\_\_\_

Address: \_\_\_\_\_

Weekly take-home (net) earnings: \$ \_\_\_\_\_ Weekly gross earnings \$ \_\_\_\_\_

Total gross income for past 12 months: \$ \_\_\_\_\_

Bank with: \_\_\_\_\_ Address: \_\_\_\_\_

Balance personal bank account: \$ \_\_\_\_\_

Balance account in name of husband/wife: \$ \_\_\_\_\_

Balance joint account with husband/wife: \$ \_\_\_\_\_

Balance joint account with any other person(s): \$ \_\_\_\_\_

What is your average monthly living expense (clothing, food, housing, transportation, other)? \$ \_\_\_\_\_ Does any person pay all or any portion of these expenses: Yes \_\_\_ No \_\_\_

If yes, who pays these costs and how much do they contribute? \_\_\_\_\_

Motor vehicles: Give make, year, present value, amount owing thereon, if any, and whether registered or titled in your name, name of husband/wife or jointly with another: \_\_\_\_\_

List all sources of income, in your name, name of husband/wife or jointly shared with another, including salary (net wages), pensions, bonds, stocks, securities, private business, farming, insurance, retirement benefits, social security benefits, lawsuits or settlements or others: \_\_\_\_\_

ADC or welfare relief, if any, in your name, name of husband/wife or jointly shared with another: \_\_\_\_\_

List all sources of public assistance, if any, including ADC, unemployment compensation, heating assistance, food stamps: \_\_\_\_\_

Real estate owned in your name, name of husband/wife or jointly shared with another (describe): \_\_\_\_\_

Other assets in your name, name of husband/wife or jointly shared with another (stereo, TV, furniture, trust funds, notes, bonds, stocks, savings certificates, life insurance, other): \_\_\_\_\_

Value: \$ \_\_\_\_\_

Are you a beneficiary or heir in an estate of a person deceased? \_\_\_\_\_

List all debts or unpaid bills, including money owed for such things as: Housing, food, clothing, transportation (car, gas), utility costs, medical and dental services and other items, be specific: \_\_\_\_\_

Does anyone owe you money or have any property belonging to you? \_\_\_\_\_

Give details in full: \_\_\_\_\_

Do you have a judgment against anyone: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, give name, date, court and amount: \_\_\_\_\_

Have you or anyone else employed or offered to employ an attorney for (you) (the child) in this matter? Yes \_\_\_\_\_ No \_\_\_\_\_ If so, how much has the attorney been paid by you or for you? \$ \_\_\_\_\_

Who can verify this information: \_\_\_\_\_

Phone number: \_\_\_\_\_ Address: \_\_\_\_\_

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the foregoing statements are true and correct to the best of my knowledge, and are made in support of my request that the court appoint legal counsel for (me) (the child) because I am financially unable to employ counsel.

\_\_\_\_\_



The State of Iowa:

\_\_\_\_\_ does not object to the appointment of counsel.  
\_\_\_\_\_ objects to the appointment of counsel and  
requests a hearing on the application.

Dated: \_\_\_\_\_, 19\_\_\_\_\_.

(Assistant \_\_\_\_\_ County Attorney)

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

IN THE INTERESTS OF

No. \_\_\_\_\_

\_\_\_\_\_  
A Child.



ORDER ON APPLICATION FOR  
APPOINTMENT OF COUNSEL AND  
FINANCIAL STATEMENT  
(Juvenile Proceedings)

ORDER

Application is set for hearing at \_\_\_\_\_ o'clock a.m./p.m., the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.  
Dated: \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge/Magistrate

ORDER

Applicant's request for appointment of counsel is approved/denied.  
\_\_\_\_\_ is appointed to serve as counsel for \_\_\_\_\_.  
Dated: \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge/Magistrate

EXHIBIT "C"

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

\_\_\_\_\_  
Plaintiff,  
  
v.  
  
\_\_\_\_\_  
Defendant.



No. \_\_\_\_\_

APPLICATION FOR APPOINTMENT  
OF COUNSEL AND FINANCIAL  
STATEMENT

(General)

I, \_\_\_\_\_, state that I am \_\_\_\_\_ in the above pro-  
ceeding and request that the court appoint counsel to represent \_\_\_\_\_ at  
public expense. I realize that I may be required to repay in whole or in part any public funds  
expended for this purpose. The following financial statement is submitted in support of my  
application:

Current mailing address: \_\_\_\_\_

Age: \_\_\_\_\_ Telephone number(s): \_\_\_\_\_

Marital status: Single  Married  Divorced  Widow(er)

Name of husband/wife: \_\_\_\_\_ Live with

husband/wife Yes  No

If no, length of physical separation from husband/wife: \_\_\_\_\_

Number and ages of dependents: \_\_\_\_\_

How long a resident of this county: \_\_\_\_\_

Occupation: \_\_\_\_\_

Present employer: \_\_\_\_\_

Address: \_\_\_\_\_

Former employer: \_\_\_\_\_

Address: \_\_\_\_\_

Weekly take-home (net) earnings: \$ \_\_\_\_\_ Weekly gross earnings \$ \_\_\_\_\_

Total gross income for past 12 months: \$ \_\_\_\_\_

Bank with: \_\_\_\_\_ Address: \_\_\_\_\_

Balance personal bank account: \$ \_\_\_\_\_

Balance account in name of husband/wife: \$ \_\_\_\_\_

Balance joint account with husband/wife: \$ \_\_\_\_\_

Balance joint account with any other person(s): \$ \_\_\_\_\_

What is your average monthly living expense (clothing, food, housing, transportation,  
other)? \$ \_\_\_\_\_ Does any person pay all or any portion of these

expenses: Yes  No

If yes, who pays these costs and how much do they contribute? \_\_\_\_\_

Motor vehicles: Give make, year, present value, amount owing thereon, if any, and whether registered or titled in your name, name of husband/wife or jointly with another: \_\_\_\_\_

List all sources of income, in your name, name of husband/wife or jointly shared with another, including salary (net wages), pensions, bonds, stocks, securities, private business, farming, insurance, retirement benefits, social security benefits, lawsuits or settlements or others: \_\_\_\_\_

ADC or welfare relief, if any, in your name, name of husband/wife or jointly shared with another: \_\_\_\_\_

List all sources of public assistance, if any, including ADC, unemployment compensation, heating assistance, food stamps: \_\_\_\_\_

Real estate owned in your name, name of husband/wife or jointly shared with another (describe): \_\_\_\_\_

Other assets in your name, name of husband/wife or jointly shared with another (stereo, TV, furniture, trust funds, notes, bonds, stocks, savings certificates, life insurance, other): \_\_\_\_\_

Value: \$ \_\_\_\_\_

Are you a beneficiary or heir in an estate of a person deceased? \_\_\_\_\_

List all debts or unpaid bills, including money owed for such things as: Housing, food, clothing, transportation (car, gas), utility costs, medical and dental services and other items, be specific: \_\_\_\_\_

Does anyone owe you money or have any property belonging to you? \_\_\_\_\_

Give details in full: \_\_\_\_\_

Do you have a judgment against anyone: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, give name, date, court and amount: \_\_\_\_\_

Have you or anyone else employed or offered to employ an attorney for \_\_\_\_\_ in this matter? Yes \_\_\_\_\_ No \_\_\_\_\_ If so, how much has the attorney been paid by you or for you? \$ \_\_\_\_\_

Who can verify this information: \_\_\_\_\_

Phone number: \_\_\_\_\_ Address: \_\_\_\_\_

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the foregoing statements are true and correct to the best of my knowledge, and are made in support of my request that the court appoint legal counsel for \_\_\_\_\_ because I am financially unable to employ counsel.

---

The State of Iowa:

\_\_\_\_\_ does not object to the appointment of counsel.  
\_\_\_\_\_ objects to the appointment of counsel and  
requests a hearing on the application.

Dated: \_\_\_\_\_, 19\_\_\_\_\_.

(Assistant \_\_\_\_\_ County Attorney)

IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

\_\_\_\_\_  
Plaintiff,  
v.  
\_\_\_\_\_  
Defendant.



No. \_\_\_\_\_

**ORDER ON APPLICATION FOR  
APPOINTMENT OF COUNSEL AND  
FINANCIAL STATEMENT  
(General)**

ORDER

Application is set for hearing at \_\_\_\_\_ o'clock a.m./p.m., the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.  
Dated: \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge/Magistrate

ORDER

Applicant's request for appointment of counsel is approved/denied.  
\_\_\_\_\_ is appointed to serve as counsel for \_\_\_\_\_.  
Dated: \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Judge/Magistrate

**RULES OF JUVENILE PROCEDURE**

**CHAPTER 277**

**RULES OF JUVENILE PROCEDURE**

IN THE MATTER OF RULES  
OF JUVENILE PROCEDURE

}  
}

REPORT OF THE  
SUPREME COURT

TO: BURNETTE E. KOEBERNICK, ACTING SECRETARY OF THE LEGISLATIVE  
COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting Rules of Juvenile Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules are to take effect on July 1, 1985.

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa  
February 21, 1985

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-first day of February, 1985, of the Report of the Supreme Court pertaining to Rules of Juvenile Procedure.

/s/ Burnette E. Koebornick

Acting Secretary of the Legislative Council

EXHIBIT "A"  
RULES OF JUVENILE PROCEDURE  
RULE ON DISCOVERY

Rule 1.1. Scope of discovery. In order to provide adequate information for informed decision making and to expedite trials, minimize surprise, afford opportunity for effective cross-examination and meet the requirements of due process, discovery prior to trial and other judicial hearings should be as full and free as possible consistent with protection of persons and effectuation of the goals of the juvenile justice system.

Rule 1.2. Delinquency proceedings.

(a) Upon the request of counsel for a juvenile who has been referred for intake screening on a delinquency complaint, the state shall give the juvenile's counsel access to all documents, reports and records within or which come within its possession or control that concern the juvenile or the alleged offense.

(b) Although informal discovery methods are preferred, upon good cause shown, depositions and interrogatories by any party may be permitted by the court in delinquency proceedings except where they conflict with these rules or with statutes. Ordinarily, however, depositions and interrogatories shall not be permitted for issues arising under Iowa Code section 232.45(6)(b) after filing of a motion to waive jurisdiction.

Rule 1.3. Child in need of assistance and termination proceedings. Although informal discovery methods are preferred, the rules of civil procedure, divisions V and VII, governing discovery, depositions and perpetuation of testimony in civil proceedings shall apply to proceedings under Iowa Code chapter 232, divisions III and IV where not inconsistent with these rules or with statutes.

MOTION PRACTICE

Rule 2.1. General rule. Any motion filed with the juvenile court shall be promptly brought to the attention of the judge or referee by the moving party.

Rule 2.2. Motions for continuance in all proceedings. A motion for continuance shall not be granted except for good cause. Any order granting a continuance shall state the grounds therefor.

PRETRIAL CONFERENCES

Rule 3.1. Pretrial conferences discretionary. In all actions the juvenile court may in its discretion order all parties to the action to appear for a pretrial conference to consider such matters as will promote a fair and expeditious trial.

SPEEDY HEARING

Rule 4.1. General rule. It is the public policy of the state of Iowa that proceedings involving delinquency or child in need of assistance be concluded at the earliest possible time consistent with a fair hearing to all parties.



Rule 4.2. Delinquency. If a child against whom a delinquency petition has been filed has not waived the right to a speedy adjudicatory hearing, the hearing must be held within sixty (60) days after the petition is filed or the court shall order the petition dismissed unless good cause to the contrary is shown.

(a) Entry of a consent decree shall be deemed a waiver of the child's right to a speedy hearing.

(b) The provisions contained herein shall be applicable notwithstanding a motion or hearing to waive jurisdiction pursuant to rule 4.3 or 4.4 hereunder.

Rule 4.3. Motion to waive jurisdiction. A motion under Iowa Code section 232.45 must be filed within ten (10) days of the filing of the petition.

Rule 4.4. Hearings regarding waiver. A hearing on a motion to waive jurisdiction filed pursuant to Iowa Code section 232.45 shall be held within thirty (30) days of the filing of said motion unless good cause to the contrary is shown.

Rule 4.5. Child in need of assistance adjudicatory hearings. The adjudicatory hearing on a child in need of assistance petition shall be held within sixty (60) days of the filing of said petition unless good cause to the contrary is shown. Failure to comply with this rule shall not result in automatic dismissal, but any such failure may be urged as grounds for discretionary dismissal.

Rule 4.6. Temporary removal hearings. Whenever a child has been removed pursuant to Iowa Code section 232.78 or 232.79, a hearing under Iowa Code section 232.95 shall be held within ten (10) days of such removal.

**SENATE CONCURRENT RESOLUTIONS**

*[Priorities determined by Legislative Council, SCR 52]*

- SCR 1 Distribution of printed legislative materials to county auditors and to Iowa's congressional delegation. Adopted, S.J. 15, 26, 102; Adopted, H.J. 49, 103.
- SCR 2 Compensation of chaplains, officers and employees of the General Assembly. Adopted, S.J. 4, 24, 28, 49-51, 102; Adopted, H.J. 99, 100, 110-121.
- SCR 3 Joint rules of the Senate and House for the Seventy-first General Assembly. Adopted, S.J. 4, 24, 28, 57-60, 81, 91, 92, 103, 125, 126; Adopted, H.J. 100, 122-134, 154, 175.
- SCR 4 Farm crisis, request for federal legislation. Adopted, S.J. 60, 65, 80, 81, 183; Adopted, H.J. 150, 157, 175.
- SCR 5 Congress urged to repeal electoral college procedures. Introduced, S.J. 60, 97, 217.
- SCR 6 Robert A. Case tribute. Adopted, S.J. 122, 143, 167, 259; Introduced, H.J. 257. (See HR 6)
- SCR 7 Study of the collective bargaining process for educators. Adopted, S.J. 131, 143, 161, 571; Adopted, H.J. 209, 270, 604.
- SCR 8 Review of laws and administrative rules relating to education. Adopted, S.J. 139, 144, 161; Introduced, H.J. 209. (See HCR 9)
- SCR 9 Joint rules amended. Add rule relative to amendments considered by suspension of germaneness. Adopted, S.J. 153, 168, 384, 385, 458; Introduced, H.J. 581.
- SCR 10 General Motors Corporation encouraged to locate Saturn factory in Iowa through efforts of Governor Branstad and Iowa Development Commission. Adopted, S.J. 206, 223, 361; Adopted, H.J. 244, 285.
- SCR 11 Public transportation systems. Adopted, S.J. 276, 279, 343; Introduced, H.J. 383, 571.
- SCR 12 Creating research, dissemination and development process for meeting certain educational needs. Adopted, S.J. 290, 294, 343; Introduced, H.J. 383.
- SCR 13 Importance of arts to a complete education emphasized. Adopted, S.J. 318, 345, 393, 518, 596; Introduced, H.J. 756. (See HCR 10)
- SCR 14 POWs and MIAs. Support for United States Government's efforts to resolve the issue. Adopted, S.J. 344, 360, 393, 444, 504; Introduced, H.J. 608, 629. (See HCR 11)
- SCR 15 Reimbursement of rural hospitals by Medicare. Introduced, S.J. 432, 443. (See HCR 13)
- SCR 16 Request Congress to allow individual states to establish sixty-five mile speed limit on fully controlled-access, divided, multilaned highways. Introduced, S.J. 432, 445, 543, 544, 1969.
- SCR 17 Preservation of environmental and agricultural land resources. Adopted, S.J. 454, 455, 551; Introduced, H.J. 659.
- SCR 18 Eligibility of certain farm families for food stamp assistance. Adopted, S.J. 455, 488, 691, 742, 839; Introduced, H.J. 986.

- SCR 19 National Railroad Passenger Corporation, Amtrak funding to maintain a sound operational position. Adopted, S.J. 493, 505, 612, 636, 691, 1028, 1055, 1785; Adopted, H.J. 757, 781, 869, 1040, 1041.
- SCR 20 Study of the judiciary, its resources and needs. Introduced, S.J. 536, 568, 691. (See SCR 27)
- SCR 21 "Women's History Week," March 3-9, 1985, designated. Adopted, S.J. 542, 573; Introduced, H.J. 714. (See HCR 19)
- SCR 22 Emergency medical services available to Iowans. Interim study committee requested. Introduced, S.J. 720, 767, 950.
- SCR 23 Long-term care needs for chronically mentally ill individuals. Interim study committee requested. Introduced, S.J. 720, 767, 950, 960, 1030, 1209. (See HCR 23)
- SCR 24 In-depth analysis of total cattle industry by interim study committee. Introduced, S.J. 803, 817, 859. (See SCR 31)
- SCR 25 Opposition to adoption of policies to eliminate or reduce funding for conservation programs by United States Congress. Adopted, S.J. 803, 820, 973, 1917; Adopted, H.J. 1124, 1388, 2110.
- SCR 26 Department of Public Instruction to conduct a study of nonapproved nonpublic schools and home study. Adopted, S.J. 806, 818, 1175, 1176; Introduced, H.J. 1412, 1494.
- SCR 27 Study of the judiciary, its resources and needs. Adopted, S.J. 826, 842, 977; Introduced, H.J. 1124, 1205, 1496. (See SCR 20)
- SCR 28 Interstate compact for controlling bovine brucellosis. Adopted, S.J. 917, 920, 1023; Introduced, H.J. 1169.
- SCR 29 Noxious weed control law. Interim study requested. Introduced, S.J. 917, 921, 985, 1209.
- SCR 30 Congress requested to remove penalties on lenders who forego interest on agricultural and small business loans. Adopted, S.J. 917, 1020, 1067; Introduced, H.J. 1242.
- SCR 31 Interim study of cattle industry. Introduced, S.J. 934, 935, 1392. (See SCR 24)
- SCR 32 United States Institute of Peace establishment encouraged in Iowa. Adopted, S.J. 1056, 1061, 1166; Introduced, H.J. 1371, 1387. (See HCR 26)
- SCR 33 Iowa grain indemnity authority feasibility interim study. Introduced, S.J. 1167, 1187, 1209.
- SCR 34 Exempt Senate File 492 from Joint Rule 20. Adopted, S.J. 1195, 1200, 1244, 1653; Adopted, H.J. 1426, 1494, 1794, 1795, 1809-1811.
- SCR 35 Liability of social hosts. Interim study committee. Introduced, S.J. 1262, 1271, 1392.
- SCR 36 Child support recovery. Interim study requested. Introduced, S.J. 1297, 1302, 1392.
- SCR 37 Joint rules suspended to allow consideration of conference committee report on Senate File 395. Adopted, S.J. 1295, 1296, 1307; Adopted, H.J. 1446-1448.
- SCR 38 Exemption for living expenses for persons selling farm products. Interim study requested. Introduced, S.J. 1334, 1347, 1415.
- SCR 39 Interim study of chronic juvenile runaways. Introduced, S.J. 1342, 1347, 1415.
- SCR 40 Tax study committee final report study by interim committee. Adopted, S.J. 1388, 1389, 1569-1571; Introduced, H.J. 1837, 2004.

- SCR 41 School bus safety laws. Introduced, S.J. 1467, 1556, 1677, 1717, 1792, 1793. Withdrawn, S.J. 1792. (HCR 31 substituted for SCR 41)
- SCR 42 Budget freeze. Introduced, S.J. 1507, 1556, 1717.
- SCR 43 Commemorative stamp for fairs and expositions requested of United States postmaster general. Introduced, S.J. 1629, 1678, 1959. (See HCR 35)
- SCR 44 Person's freedom of decision. Introduced, S.J. 1667, 1772, 1959.
- SCR 45 Proposed merger of Conrail and Norfolk Southern opposed. Introduced, S.J. 1705, 1772, 1959. (See HCR 34)
- SCR 46 Safe working environment for video display terminal users. Interim study requested. Introduced, S.J. 1811, 1813, 1840, 1959.
- SCR 47 Merged area school funding and governance. Interim Education study subcommittee. Introduced, S.J. 1821, 1846.
- SCR 48 Public retirement systems study by joint State Government subcommittee. Introduced, S.J. 1841, 1846, 1860.
- SCR 49 School aid formula study by interim committee. Adopted, S.J. 1841, 1845, 1888; Introduced, H.J. 2200.
- SCR 50 Sine die adjournment, Saturday, May 4, 1985. Adopted, S.J. 1841, 1845, 1996, 1997; Adopted, H.J. 2345.
- SCR 51 Commercial and industrial development in the state encouraged. Adopted, S.J. 1873, 1876, 1881; Adopted, H.J. 2200, 2336.
- SCR 52 Legislative council to determine priorities of interim studies. Adopted, S.J. 1904, 1912, 1920; Introduced, H.J. 2310.
- SCR 53 Special session of legislature requested to improve qualitative deficiencies and efficiencies of education in Iowa. Introduced, S.J. 1933, 1970.
- SCR 54 Interim study with Nebraska of feasibility of joint operation of educational services and facilities for hearing impaired and visually impaired persons. Introduced, S.J. 1989.

**HOUSE CONCURRENT RESOLUTIONS**

*[Priorities determined by Legislative Council, SCR 52]*

- HCR 1 Joint convention, January 15, 1985, 10:00 a.m., Governor Terry E. Branstad's condition of the state message. Adopted, H.J. 13, 20; Adopted, S.J. 21.
- HCR 2 Joint convention, January 17, 1985, 10:00 a.m., message by Supreme Court Chief Justice W. Ward Reynoldson, on the condition of the judicial department. Adopted, H.J. 13, 20; Adopted, S.J. 23, 24.
- HCR 3 Joint convention, January 24, 1985, 10:00 a.m., Governor Terry E. Branstad's budget message. Adopted, H.J. 14, 20; Adopted, S.J. 23, 56, 57.
- HCR 4 Iowa's economic crisis message presented to federal officials and join with other midwest states to present one voice to achieve quick and positive action. Introduced, H.J. 74. (See HCR 6)
- HCR 5 Requesting federal legislation for an adequate farm program. Adopted, H.J. 137, 154; Introduced, S.J. 130, 171, 310.
- HCR 6 Iowa's economic crisis. Invite other states to join as one voice to appropriate federal officers and agencies. Adopted, H.J. 137, 154; Introduced, S.J. 131, 171, 310. (See HCR 4)
- HCR 7 Teacher compensation study by college of education of state institutions. Introduced, H.J. 191.
- HCR 8 Board of Public Instruction create a research, dissemination, and development process for meeting certain educational needs. Introduced, H.J. 197, 232.
- HCR 9 Review of laws and administrative rules relating to education. Introduced, H.J. 196, 232. (See SCR 8)
- HCR 10 Importance of arts to a complete education. Introduced, H.J. 382, 570. (See SCR 13)
- HCR 11 POWs and MIAs. Support for United States Government's efforts to resolve issue. Introduced, H.J. 383. (See SCR 14)
- HCR 12 National Crisis Action Rally. Adopted, H.J. 509, 510; Adopted, S.J. 503, 508.
- HCR 13 Medicare reimbursement to rural hospitals. Introduced, H.J. 581, 712, 736. (See SCR 15)
- HCR 14 Federal action to advance price support payments to farmers to finance spring planting. Introduced, H.J. 587, 682.
- HCR 15 American POWs and MIAs. Introduced, H.J. 607. (See HCR 11, SCR 14)
- HCR 16 Interim study requested to validate implementation of comparable worth in state employment. Introduced, H.J. 607.
- HCR 17 Biennial memorial service, Tuesday, April 9, 1985, at 7:30 p.m. Adopted, H.J. 607, 708; Adopted, S.J. 701, 741, 938, 951, 965.
- HCR 18 Pioneer Lawmakers Association meeting and program in joint session of the General Assembly, Wednesday, April 17, 1985, 1:30 p.m. Adopted, H.J. 607, 708, 709; Adopted, S.J. 701, 741, 939, 951, 965.
- HCR 19 "Women's History Week" designated beginning March 3, 1985. Adopted, H.J. 658, 707, 708; Introduced, S.J. 702, 741, 952. (See SCR 21)
- HCR 20 Governor Branstad commended for his efforts to make known to the President the serious nature of the agricultural crisis in Iowa. Introduced, H.J. 683.

- HCR 21 Small Business Administration continuation urged. Adopted, H.J. 713, 984, 2000; Introduced, S.J. 1750, 1837, 1960.
- HCR 22 Origin of life beliefs guaranteed for students and teachers. Introduced, H.J. 781.
- HCR 23 Interim study of long-term care needs of chronically mentally ill. Introduced, H.J. 802. (See SCR 23)
- HCR 24 Review of budget estimates by Governor Branstad for fiscal year beginning July 1, 1985. Introduced, H.J. 802.
- HCR 25 Ten-year building program of Board of Regents. Introduced, H.J. 884, 1384. (See HCR 41)
- HCR 26 Establishment of United States Institute of Peace in Iowa. Adopted, H.J. 929, 1124, 1999; Adopted, S.J. 1750, 1775, 1837, 1913, 1921, 1960. (See SCR 32)
- HCR 27 Iowa Highway Safety Patrol commended on its fiftieth anniversary. Introduced, H.J. 1169.
- HCR 28 Open meetings law interim study. Introduced, H.J. 1371.
- HCR 29 Congress urged to take actions to assist farmers. Adopted, H.J. 1440, 1443, 2000; Adopted, S.J. 1750, 1837, 1913, 1921, 1960.
- HCR 30 Ten-year building program of Board of Regents. Introduced, H.J. 1528, 1716, 1836, 2004. (See HCR 41)
- HCR 31 School bus safety law enforcement encouraged. Adopted, H.J. 1580, 2000; Adopted, S.J. 1750, 1792, 1793.
- HCR 32 School finance interim study. Introduced, H.J. 1493, 1580.
- HCR 33 Gubernatorial bill-signing ceremonies. Introduced, H.J. 1717.
- HCR 34 Conrail and Norfolk Southern merger opposed. Adopted, H.J. 1717, 2012; Adopted, S.J. 1757, 1837, 1846, 1862. (See SCR 45)
- HCR 35 Request for commemorative stamp for fairs and expositions. Introduced, H.J. 1837. (See SCR 43)
- HCR 36 Payment of fees for legal services of appellant in *Rush v. Ray*. Introduced, H.J. 2005. (See HCR 43)
- HCR 37 Outgoing telephone service at desks of legislators. Adopted, H.J. 2005, 2222; Introduced, S.J. 1967, 1970.
- HCR 38 National age of majority. Introduced, H.J. 2005.
- HCR 39 Interim study of vacating of state and county roads. Introduced, H.J. 2005.
- HCR 40 Public retirement systems. Interim study. Introduced, H.J. 2005.
- HCR 41 Ten-year building program of Board of Regents. Adopted, H.J. 2030, 2138-2142, 2274, 2275; Adopted, S.J. 1886, 1912, 1924, 1925. (Vetoed by Governor, May 28, 1985)
- HCR 42 Drunken driving. Interim study committee. Adopted, H.J. 2134, 2143; Adopted, S.J. 1887, 1913, 1921.
- HCR 43 Payment of fees for legal services of appellant in *Rush v. Ray*. Adopted, H.J. 2167, 2168; Introduced, S.J. 1918, 1934-1936. (See HCR 36)
- HCR 44 Gasohol exemptions study. Introduced, H.J. 2199.
- HCR 45 Sine die adjournment. Introduced, H.J. 2349. (See SCR 50)

**SENATE RESOLUTIONS**

- SR 1 Permanent rules of the Senate. Adopted, S.J. 20, 22, 23, 31.
- SR 2 Martin Luther King Day, January 15, 1985, commemorated. Adopted, S.J. 4, 24, 31.
- SR 3 Amendments to certain of the permanent rules of the Senate. Adopted, S.J. 166, 199, 200, 320, 321.
- SR 4 Amendment to temporary rules on lobbying. Introduced, S.J. 244, 285.
- SR 5 Senate rules governing lobbyists. Adopted, S.J. 273, 274, 343.
- SR 6 Senate code of ethics. Adopted, S.J. 273, 275, 344, 382, 383.
- SR 7 Gubernatorial appointments requiring Senate confirmation. Adopted, S.J. 378, 384, 423, 424.
- SR 8 League of Women Voters, sixty-fifth anniversary commemorated February 14, 1985. Introduced, S.J. 409, 443, 813.
- SR 9 Federal Supplemental Compensation Program extension requested. Adopted, S.J. 647, 677, 678, 1216.
- SR 10 Defer confirmation of Flora E. Haker to state judicial nominating commission. Adopted, S.J. 1367, 1385, 1386.
- SR 11 Rule 37 of the Senate rules amended. Adopted, S.J. 1841, 1845, 1849.
- SR 12 Daily operations of the Senate. Adopted, S.J. 1873, 1876, 1882.
- SR 13 Gubernatorial appointments – schedule for committee action revised. Adopted, S.J. 1904, 1912, 1923, 1924.
- SR 14 Confirmation of gubernatorial appointments submitted during the last thirty days of the session deferred. Adopted, S.J. 1908, 1912, 1920.

**HOUSE RESOLUTIONS**

- HR 1 Opening sessions with prayer, committee to arrange with ministers of the state. Adopted, H.J. 17, 18.
- HR 2 Appointment of clerks, secretaries and pages. Adopted, H.J. 18.
- HR 3 Martin Luther King Day, January 15, 1985, proclaimed. Adopted, H.J. 49, 54.
- HR 4 Permanent rules of the House for the Seventy-first General Assembly. Adopted, H.J. 74, 433-461, 510.
- HR 5 SOO Line Railroad acquisition of the Milwaukee Road approved. Introduced, H.J. 197.
- HR 6 Robert A. Case tribute for his contributions to greater public awareness of the governmental operations. Adopted, H.J. 209, 214. (See SCR 6)
- HR 7 House Code of Ethics. Adopted, H.J. 337, 383, 854-856.
- HR 8 House rules governing lobbyists. Adopted, H.J. 337, 383, 856-859.
- HR 9 League of Women Voters' sixty-fifth anniversary, February 14, 1985, commemorated. Adopted, H.J. 383, 389.
- HR 10 Wildlife food plots for set-aside acres urged as a part of federal 1985 farm program. Adopted, H.J. 338, 383, 823.
- HR 11 Hazardous waste control by Salsbury Laboratories. Adopted, H.J. 713, 763, 778, 2350.
- HR 12 Congratulating Iowa State Cyclones and University of Iowa Hawkeyes basketball teams. Adopted, H.J. 781, 789.



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